

Based upon information gained through studies, this staff report provides five options for regulating gaming establishments in Shoreline. In brief, the options include:

- **Option 1: Allow gaming establishments.** This option maintains the status quo. It allows gaming establishments as a principally permitted use in all commercial districts; incentives are not provided, however, minimum development standards are required.
- **Option 2: Allow and Encourage gaming establishments.** This option would allow and encourage/provide incentives for gaming establishments in all commercial districts. Minimum development standards would be required.
- **Option 3: Allow gaming establishments with conditions and restrictions.** This option would limit gaming establishments to selected zones/areas of the City (e.g., regional business, gaming district). This option requires adoption of special development standards to address impacts to the site and to the public realm (e.g., architectural character, setbacks, access/parking, landscaping, lighting, signage).
- **Option 4: Prohibit new gaming establishments.** This option prohibits new gaming establishments. Existing gaming establishments may remain as non-conforming uses for a maximum time period to be established by the City. This non-conforming status would prevent intensified or expanded operations. Limited remodeling could be allowed.
- **Option 5: Prohibit all gaming establishments.** This option prohibits all establishments. New establishments are not permitted. Existing establishments are required to cease operations immediately. State law permits a local jurisdiction to ban all gaming establishments.

It should be noted that some of the options listed above involve differences of opinion regarding their legal viability under state law. As a result, some of these options may be subject to legal challenge.

In summary, this staff report is intended to provide information, frame issues, and present the benefits and costs of gaming, in order to assist your Council in discussion of the future of gaming in Shoreline. Staff recommends that a public hearing be scheduled to allow further comment and consideration regarding the future of gaming in the City.

The report also provides five options for guiding gaming establishments in Shoreline. Your Council may wish to consider this information as you deliberate about the future of gambling in our City. At the conclusion of your deliberations, your Council will be asked to schedule a public hearing to review options to guide gambling activities in Shoreline.

### RECOMMENDATION

Staff recommends that your City Council:

- a. Consider options for policies and guidelines to regulate food and drink establishments conducting social card games, punch boards or pull tabs in the City of Shoreline.
- b. Schedule a public hearing to receive public comment with respect to the regulation of food and drink establishments conducting social card games, punch boards, or pull tabs in the City of Shoreline.

Approved By: City Manager LB City Attorney W

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## I. BACKGROUND/ANALYSIS

Shoreline is among several counties and local jurisdictions that are beginning to contemplate options for allowing and regulating gaming operations. At this time, some jurisdictions have, in fact, prohibited all gaming establishments (e.g., Enumclaw, Maple Valley, Normandy Park). (See Exhibit A – Cities Prohibiting Gambling Activities.) Some jurisdictions prohibit selected gaming operations. For example, Renton has established regulations that restrict gaming operations to a specific zone and geographic area (See Exhibit B – City of Renton Ordinance No. 4691).

Other jurisdictions (e.g., Auburn, Burien) have recently instituted moratoria on new gaming establishments in order to undertake studies of these businesses. The purposes of the studies are to determine whether: (1) existing businesses create harmful secondary effects; and (2) whether new gaming establishments would be consistent with the jurisdiction's comprehensive plans and/or development regulations. These studies are not yet completed.

At incorporation of the City of Shoreline, your Council adopted King County Ordinances to guide growth in our community. The purpose of adopting King County standards was to regulate new development pending the adoption of Shoreline's Comprehensive Plan and the adoption of local development regulations to support the Plan.

King County regulations, as adopted by Shoreline, permit a variety of food and drink businesses with gaming establishments in the City. At this time, Shoreline has 17 existing gaming establishments (i.e., establishments conducting social card games, punch boards, and/or pull tabs). These establishments include:

Establishment	Location	Current Activities
Cascade Booster Club (^)	16325 5 <sup>th</sup> Avenue NE	Bingo, Pull tabs, Cardroom (pending)
Parker's	17001 Aurora Avenue	Mini-casino
China Clipper	20221 Aurora Avenue	Pull tabs
Cliffs Tavern	910 N 145 <sup>th</sup> Street	Pull tabs, Cardroom
Drift on Inn	16708 Aurora Avenue	Mini-casino
Eagles, FOE 4122 (^)	17724 15 <sup>th</sup> Avenue NE	Pull tabs
Echo Lake Tavern	19508 Aurora Avenue	Pull tabs
Gateway Inn	18380 Midvale N	Pull tabs
Goldies (**)	15030 Aurora Ave	Pull tabs
Hideaway Tavern	14525 Aurora Avenue	Pull tabs; Cardroom
Highland Skating Bingo	18005 Aurora Avenue	Bingo, Pull tabs
Italo Bella	14622 15 <sup>th</sup> Avenue NE	Pull tabs, Cardroom
North City Tavern	17554 15 <sup>th</sup> Avenue NE	Pull tabs
Palace of China	14810 15 <sup>th</sup> Avenue NE	Pull tabs
Shays	15744 Aurora Avenue	Pull tabs
Sparkey's Bar & Grill	20109 Aurora Avenue	Pull tabs
Wild Horse Bar	2001 NW 195 <sup>th</sup> Street	Pull tabs
^Private Club		
*Mini-casino includes card rooms and pull tabs		
** Goldies mini-casino permit was issued 5/13/99, following the moratorium.		

In the region and in the City, there appears to be a trend toward the addition of new gaming operations and/or the intensification or expansion of existing gaming operations. For example, mini-casinos, which have been historically limited to 5 game tables, are now permitted to have 15 tables. Other changes in gambling regulations have encouraged intensification and expansion as well. Specifically, "house bank" games are now permitted by law. In this situation, the business operates its own games (e.g., black jack, pai gow poker, Caribbean stud) rather than contracting with outside vendors to conduct games. House banking allows the business to realize greater profits. Additionally, the maximum bet per game has been increased from \$25.00 to \$100.00. This increase also provides opportunities for greater profits, which encourages intensification and expansion of operations. The Drift On Inn has recently received permission to allow increased betting limits.

At this time, three existing establishments (Goldie's, Hollywood Pizza, and The Hideaway) have applied to the State Gambling Commission for permission to add new operations or increase betting limits. Goldie's has recently been approved for increased betting limits. The remaining two applications are slated for review by the State by no later than June, 1999. Prior to Council's adoption of the moratorium on February 8, 1999, the City received one application, from Hollywood Pizza, for a tenant improvement to include conversion of some restaurant seating areas to gaming areas (i.e., 4 tables with 7 seats each and 3 tables with 7 fixed seats each). This application is on hold at the request of Hollywood Pizza. Cascade Bingo has applied, as a private club, for a cardroom.

Although no other applications have been received by the City, there have been inquiries from existing gaming establishments wishing to intensify or expand operations (e.g., Goldie's, Parker's, Drift On Inn) and from new gaming establishments potentially interested in locating in Shoreline.

## **II. ISSUES AND DISCUSSION**

The City Attorney and staff conducted a review of current literature on impacts related to gaming establishments and gambling activities (See Exhibit C – Bibliography: Gambling: Reports, Articles and Local Ordinances) and case law. Staff also participated in regional meetings with City officials, state government representatives, gaming establishment operators, and King County Law Enforcement officials to discuss issues and options related to the gaming industry. Key issues identified and addressed in our studies include:

**A. Legal Opportunities and Constraints:** Washington state allows cardrooms and mini-casinos only as ancillary businesses to a restaurant, bar or tavern; full casino gaming is prohibited. Local zoning ordinances can prohibit gaming within city limits. Local zoning ordinances also can regulate gaming establishments by setting particular zones and requiring particular development standards (e.g., locational criteria, site improvements, public improvements) for these establishments.

Washington State does not tax gaming establishments such as card clubs; however, these establishments can be taxed by local governments. Mini-casinos can be taxed up to a rate of twenty per cent. Cardrooms can be taxed up to a rate of 20 per cent. The City's tax rate of 11 percent has not been changed since Shoreline's incorporation and was the rate used by King County.

In considering the various options for regulating gaming establishments, your Council should be aware that legal conclusions concerning permitting, mitigating and banning gaming establishments is the object of some disagreement due to a lack of case law. The State of Washington Gambling Commission has recently issued a letter to the City of Renton concerning the authority of the cities to regulate gaming operations (Exhibit D). The Gambling Commission states that, if local jurisdictions permit gambling, those jurisdictions cannot limit gambling activities which have been licensed by the Commission. The Commission reports that, it may not "deny (or restrict) a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued." According to the Gambling Commission, local jurisdictions may absolutely prohibit gambling; however, if gambling is banned, then existing uses may not continue operations.

The Commission indicates it has taken no formal position on these issues, but has requested an opinion from the Attorney General. A Memorandum has been issued from an Assistant Attorney General in the Office of the Attorney General (See Exhibit E) in response to the Gambling Commission letter. The Memorandum, which is defined as an unofficial opinion, generally supports the position of the Gambling Commission concerning limitations on local communities' authorities for issuing moratoria and for promulgating zoning regulations. According to the Commission, further clarification of regulations may also come from anticipated litigation by licensees and local jurisdictions.

A group of Western Washington municipalities, with representatives from approximately 15 cities, is currently examining the scope of local jurisdictional authority to regulate gaming establishments. It is the general opinion of the counsel for these jurisdictions (including the City of Shoreline) that the law provides authority for cities to regulate gaming establishments through moratoria, zoning and land use restrictions (e.g., locations, development standards, operations, and granting of non-conforming status). This position is supported by a 1998 study entitled, *State and Local Government Regulation of Gaming: Recent Canada and U.S. Case Law*, (Exhibit C) which reports that, generally, local governments have retained zoning, business license and tax jurisdiction over non-tribal casino lands and gaming devices".<sup>(1)</sup>

Your Council may choose to enact policies or standards regulating gambling that either are consistent with or conflict with the Gambling Commission's current interpretation (and the Attorney General's "unofficial opinion") of local gambling authorities. Your Council may also direct staff to request an official opinion of local gambling authorities. Such an opinion concerning local authorities would be based upon an interpretation of the law; this opinion will not have the force of law. The nature, scope and limit of local authorities would most likely be determined by a legal challenge.

#### **B. Land Use Issues:**

1. Comprehensive Plan: The City is beginning to implement its new Comprehensive Plan. The Plan includes several elements that provide the policy foundation for new commerce in Shoreline. The Plan does not directly address gaming establishments, but does provide policies that are relevant to gaming establishments within the Land Use Element, Community Design Element and an Economic Development Element.

a. Vision/Framework Goals: The City's vision is embodied in overall principles that guide the development of the Comprehensive Plan. The principles are identified as Framework Goals (FG) (Exhibit F). One framework goal (FG2) envisions a community

that will "promote quality building and development that is compatible with the surrounding environment." FG4 calls for Shoreline to "pursue a strong and diverse economy and assure economic development that complements neighborhood character." Under these Comprehensive Plan framework goals, new gaming establishments, if permitted by the City, would need to function as an element of a strong economy and be designed to complement the surrounding land uses and neighborhood character.

b. *Land Use Element:* The Comprehensive Plan Land Use Element includes 5 goals and more than 20 policies that generally address commercial development and that could relate to gaming establishments (Goals I, V, VII, VIII, IX; Policies 2-6, 38-40, 44, 45, 48-51, 53, 61, 64 and 66 - See Exhibit G). These goals and policies: (1) encourage needed, diverse and creative development (including thriving commercial development), (2) protect existing uses, increase job opportunities, (3) safeguard the natural and built environment...and (4) help to maintain Shoreline's sense of community.

Some policies address impact mitigation (e.g., providing attractive, vital development through strong design standards, ensuring availability of concurrent public services and facilities). Some policies encourage the City to provide incentives and/or to participate in public/private partnerships to support uses that enhance the City's vitality through a variety of regulatory and financial strategies. A number of policies emphasize the desirability of creating a broad mix of uses in economic development centers along the Aurora Corridor and North City.

The City currently has 17 gaming establishments. Allowing these uses to continue operations would be consistent with goals and policies that seek to protect existing uses. Providing incentives for new gaming uses would be inconsistent with those goals and with policies that encourage needed, diverse and creative development. New gaming establishments, if permitted, should be required to comply with goals and policies calling for neighborhood compatibility, strong design standards and concurrent public services/facilities in order to be consistent with the Plan.

c. *Economic Development Element:* The Comprehensive Plan Economic Development Element includes five goals and more than 35 policies that generally address commercial development and that could relate to gaming establishments (Goals I, V, VII, VIII, and IX; Policies 1-3, 5, 7, 9, 10, 16-18, 20, 21, 27-29, 36-41 - See Exhibit H). In general, the intent of the Economic Development Element is to improve the quality of life by encouraging a greater number and variety of thriving commercial businesses that provide services and create employment opportunities for Shoreline residents.

Existing gaming establishments, to the extent that they are thriving businesses, are generally consistent with those goals and policies that support vital commercial uses. New gaming establishments may be less compatible with those goals and policies which encourage (and provide for possible incentives for) a variety of businesses and services.

Several studies address economic impacts of gaming industry (e.g., Economic Development Review, 1998, et al - Exhibit C).<sup>(2)</sup> A majority of these studies report that gaming is an industry of mixed value. Short term financial impacts (e.g., tax revenue, increased employment) can be positive. However, the value of gaming is generally reported to be limited because it produces no product and no new wealth, and thus makes no genuine contribution to economic development. Several of these studies indicate that gaming establishments do not attract secondary businesses to the community. Rather, reports as the one mentioned above indicate that many existing

businesses will leave an area that has gaming establishments and new businesses (other than gaming) will seek locations away from gaming establishments.

Specifically, a number of studies report that customers of gaming establishments spend their dollars on gambling and do not customarily shop or use services in the vicinity of the gaming establishments (e.g., Gambling on Economic Development, et al – Exhibit C). <sup>(3)</sup> Employees do not typically shop at stores near their workplaces because their work hours do not coincide with typical business hours of those stores. This further discourages other existing businesses from remaining in the neighborhood. When neighboring uses move away from gaming establishments, reducing both the commercial viability and property values of the vacated properties.

Several Comprehensive Plan Economic Development goals and policies encourage commercial uses (e.g., office, sales, services) which provide a range of employment opportunities. The gaming industry does provide employment opportunities for dealers, cashiers, and security staff. In Shoreline, approximately 600 people are employed by mini-casinos and cardrooms. These employees are recruited from communities throughout our region. Studies indicate that positions are entry-level jobs and offer no prospects for advancement (e.g., Economic Development Review, 1998; et al – Exhibit C). <sup>(4)</sup> Several of the reports indicate that gaming establishments almost invariably result in a net loss of jobs to a community due to the fact that other land uses near gaming establishments often move out of the areas.

There may be other negative impacts related to gaming. For example, according to "The House Never Loses...Why Casino Gaming is a Bad Idea", and several other articles (Exhibit C), in Tunica County, the poorest county in Mississippi, the introduction of gambling reduced unemployment to 4.9% and cut welfare by 33%, but there were negative impacts as a result of dramatic increase in crime. In Atlantic City, 35,000 permanent jobs were created and property values around the boardwalk have risen, but much of the city remains depressed and crime has risen significantly. Studies of other communities across the country (e.g., Illinois, Maryland, Wisconsin, etc.) reveal similar findings. <sup>(5)</sup> (See Economic Issues section of this report for more information.)

d. *Community Design Element:* The Comprehensive Plan Community Design Element includes three goals and more than 40 policies that generally address commercial development and that could relate to gaming establishments (Goals I, II and III; Policies CD 1-5, 9-13, 14-17, 2, 22-24, 28-32, 34, 37, 44 - See Exhibit I). In general, the intent of the Community Design Element is to improve the quality of life by ensuring that new construction and improvements fit into and enhance the identity and appearance of commercial neighborhood, creating a cohesive, contextual community image.

In brief, under the Community Design Element, all new businesses-- including gaming establishments -- coming into Shoreline and all existing businesses that are remodeling would be required to meet the basic design guidelines. In addition, in order to address identified project impacts, developments would be required to include specific improvements (e.g., integrated architectural character, bulk and footprint, setbacks, landscaping, signage, lighting, vehicular and pedestrian access, and parking requirements).

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In the event that Council believes that the current Comprehensive Plan goals and policies should be revised to adequately guide gaming establishments, the Council can

establish additional Comprehensive Plan goals and policies through a Comprehensive Plan Amendment.

2. Zoning: Under the Comprehensive Plan Land Use Designation Map and the current Shoreline Zoning Map, gaming establishments would be permitted in all commercial zones – i.e., regional business, community business, neighborhood business, office and industrial zones.

Research indicates that gambling attracts customers from a region rather than from a single community. Many communities restrict gaming establishments to specific zones such as a regional commercial zone that has high visibility, accessibility and is convenient to regional users. This approach preserves smaller commercial districts for uses that serve the local community. It can also protect vulnerable residential districts, historic districts and environmentally sensitive areas.

The City may develop specific zoning requirements for gambling. For example, gambling could be allowed only in regional commercial zones, with other regional uses and with adequate systems (e.g., access routes, utilities, infrastructure) to serve regional uses. Some communities further restrict gaming uses to specific districts. Nationally, examples include Deadwood, South Dakota, Tunica, Mississippi, and the more famous gambling districts, such as Atlantic City. In Western Washington, communities are just beginning to consider specific districts. For example, Renton allows new gaming establishments only in a specific area in a regional industrial/commercial zone, an activity center that is well-away from the downtown City Center.

Research (e.g., "The House Never Loses...Why Casino Gaming is a Bad Idea", 1995 – Exhibit C) indicates that a gaming district, which is limited to gaming establishments, constrains economic development opportunities. A regional zone that allows gaming among a variety of uses would provide opportunities for a stronger economic base. However, study data indicates that existing businesses and new businesses may be expected to prefer locations away from gaming establishments. <sup>(6)</sup>

3. Development Standards: Under current regulations, standards for gaming establishments would be the same as those standards required for other types of general commercial use. For example, commercial development standards regulate such general features as bulk, height, and setbacks. Uses within the Aurora Corridor would also be subject to Aurora Overlay standards, such as signage, landscaping and access requirements. These general and area-specific standards do not specifically address aesthetic and functional impacts attributable to gaming establishments.

The City may establish special development standards for gaming establishments, where specific standards are needed to address particular impacts that occur with these uses. The City could establish site plan review requirements appropriate to mitigate impacts to a project site, surrounding properties and the public realm. For example, in order to mitigate impacts from gaming establishments occurring our highly visible regional business district, the City may call for special design standards (e.g., architectural features, height and setback limits, signage, landscaping, lighting). Similarly, special standards may be required to separate gaming establishments from neighboring sensitive uses, such as homes, schools and churches. These standards could include height and setback limits, signage, landscaping, and lighting requirements.

Further, the City may develop special requirements for gaming establishments to address traffic, noise and air pollution impacts. In a variety of studies (e.g., "Gaming Casino Traffic", March 1998, et al – Exhibit C), data indicates that casinos generate



significant volumes of traffic – especially during the evening peak hours. This traffic places a strain on the infrastructure, and creates noise and air pollution. Studies also report that traffic and parking accommodations that are established for general businesses (e.g., family restaurant, grocery store) are based upon lower staffing levels and more frequent customer turnover than occurs with gambling as a destination activity. Traffic and parking problems are also exacerbated with gambling casinos that are located in commercial zones where overall commercial traffic may be substantial (Zoning News: "Loading the Dice: Zoning Gaming Facilities", 1994, et al – Exhibit C). Appropriate mitigation for traffic impacts related to gaming establishments could include improvements to rights-of-way, access, parking and signage.)<sup>(7)</sup>

### C. Economic Issues:

1. Overview: The direct and indirect economic impacts, including social impacts, of gambling activities have been investigated in a variety of studies (e.g., "House Never Loses...Why Casino Gaming is a Bad Idea"; Draft Report of the National Gambling Impact Study Commission; "Overview of National Survey and Community Database Research on Gambling Behavior", University of Chicago (1999); et al). Findings of the reports are consistent in some areas and differ in other areas.<sup>(8)</sup>

For example, the Draft Report of the National Gambling Impact Study Commission (NGISC Draft Report) indicates that little is known, overall, about the gambling industry's economic and social impacts. The NGISC Draft Report suggests that gambling can be an effective economic tool (particularly in those communities with limited existing economic opportunities, such as rural areas or tribal nations). Several other studies, however, indicate that gambling is an industry that produces no product and no new wealth, and thus makes no genuine contribution to economic development (e.g., America's House of Cards, et al – Exhibit C). Those studies indicate that gaming establishments almost invariably result in a net loss of jobs, increased taxes and negative economic spirals.<sup>(9)</sup>

The NGISC Draft Report and other studies are more consistent in identifying social costs, such as gambling addiction. Gambling addiction is defined as being "significant" and youth gambling "startling" in several reports, including the NGISC Draft Report.<sup>(10)</sup>

2. Taxation/Revenue: Estimates are that over \$600 billion is wagered annually in the United States (City of Burien Presentation on Gambling, February, 1999, et al – Exhibit C).<sup>(11)</sup>

According to the City of Shoreline's Finance Department, the amount wagered in Shoreline last year was \$18,512,670. In the first quarter of 1999, approximately \$9,434,756 has been wagered. Mini-casinos account for 71% of gambling dollars. In 1998, Shoreline taxed cardrooms and mini-casinos at a rate of 11% of gross receipts. Combined gambling revenue in the amount of \$1,253,462.00 provided five percent of Shoreline's total revenue. In 1999, it is estimated that Shoreline will receive more than six per cent of it's total revenue for this year from gambling taxes. The 1999 Budget projects revenue of \$2,155,900.00. During the first quarter we received \$573,334.

In comparison, card rooms in other communities are taxed up to 20% (SeaTac, Puyallup, Lakewood, Edmonds). Mini-casinos in the region are taxed at between 5% (Olympia, Mountlake Terrace) and 11% (Kenmore, Federal Way, Kirkland, Shoreline). The average rate is 8.8%.<sup>(12)</sup>

Shoreline can consider increased tax rates up to 20% for gaming establishments. This tool can provide increased revenue to the community. However, there are potential costs associated with an increase in the level of taxation. For example, smaller gaming operations may fail. Other gaming establishments may relocate to communities with lower rates of taxation. Further, the State of Washington may impose lower limits on rates of taxation. The Legislature has indicated that, if taxation rates reduce the viability of these uses, that regulations will be revised to reduce maximum taxation rates.

3. Community Service Benefits/Costs: Studies (e.g., Gambling on Economic Development; America's House of Cards, 1998, et al -Exhibit C) indicate that tax income from the gaming industry is a variable both by virtue of the nature of gambling and the evolving laws affecting taxation rates. Because gambling revenue is unstable, it is an unreliable source of revenue for community development. <sup>(13)</sup>

Various studies also articulate general findings of fact that identify rising crime in conjunction with casinos. For example, the NGISC Draft Report finds gambling levels to be a "startling" phenomenon. Particularly notable trends include youth gambling. Compulsive gambling is a substantial cause of crime, although the NGISC Draft Report considers "traditional casinos" as less harmful to the community than "convenience" gambling in the form of slot machines or video terminals...". <sup>(14)</sup>

The City of Burien in a report entitled "Presentation on Gambling" 2/99 (Exhibit C) indicates that the number of compulsive gamblers has been shown to increase in states with legalized gambling. This finding is confirmed by a variety of other studies, which report increases of up to 500 per cent and find that low-income people do the most gambling, although they can least afford to gamble. <sup>(15)</sup>

The NGISC Draft Report and several other studies demonstrate that crime exists in conjunction with: (1) gaming establishment operations (e.g., fraud, organized crime); (2) customer activities within gaming establishments; and (3) customer behavior following gambling activities. Other problems demonstrated to relate to gambling include: (1) income loss leading to financial hardship, bankruptcy and resulting service requirements; (2) concomitant alcohol abuse and alcohol-related incidents (e.g., as traffic accidents); and (3) frustration at loss, leading to health/mental health problems (e.g., family abuse), requiring police and social services. <sup>(16)</sup>

The King County Police Department, which provides services to Shoreline, does not maintain specific statistics for gambling-related crimes. However, King County Police Detective Steve Ellis has indicated that calls to gaming establishments in Shoreline are similar in number and type (e.g., fighting, public drinking, fraud, prostitution) to crimes reported in studies on criminal activities related to gambling.

"The House Never Loses...Why Casino Gambling is a Bad Idea" 1995, (Exhibit C), estimates costs to a community resulting from the association between gambling and criminal activities. Costs are based, in part, on a review of criminal activities occurring in several areas where gambling is permitted - such as Mississippi, Colorado, South Dakota, New Jersey, Connecticut, Louisiana, Nevada, and Illinois. This review and other studies address criminal activities, costs for the criminal justice system, costs to victims and damage to community image. It is estimated that for every dollar gambling contributes in taxes, taxpayers spend at least \$3 on costs ranging from increasing police patrols and treating pathological gamblers. The average social cost of a compulsive gambler is estimated to be as high as \$53,000 per year. <sup>(17)</sup>

In an article entitled, "The Case Against Legalized Gambling" and in the Journal Reporter ("Sims: No New Card Rooms", 1/99-2/99 – a presentation by Ron Sims, King County Council) it is reported that "card rooms ... have led to crime, reduced property values and businesses leaving the neighborhoods". Mr. Sims also noted that these "hidden costs in...neighborhood degradation outweigh any tax revenue". Mr. Sims reports that these costs amount to \$3 to \$4 for each one dollar of tax revenue. <sup>(18)</sup>

## V. OPTIONS:

There are several options for guiding gaming establishments. Staff has described five options for addressing gaming uses in Shoreline – ranging from encouragement, to allowing these uses with conditions, to prohibiting these uses. This listing, including a brief benefit/cost summary, is based upon staff analysis of the Comprehensive Plan, the development code, legal issues, economic issues and social issues.

The option selected by your Council for regulation of gaming establishments and the policies developed to support that option, will determine the extent to which existing and new gaming uses would be consistent with the intent of our adopted Comprehensive Plan. Policies and regulations developed for your Council's preferred option will also determine the extent to which gaming establishments would be an asset to the community or would result in deleterious effects in Shoreline.

- **Option 1: Allow gaming establishments.** This option maintains the status quo. It allows gaming establishments as a principally permitted use in all commercial districts. Tax incentives are not provided, however, minimum development standards are required to address on-site impacts and impacts to the public realm.

*Benefits:* City revenues from gaming establishments may be maintained; revenues could increase if more customers come to Shoreline establishments because other communities prohibit gambling. The City could also raise tax rates for existing establishments. Entry-level job opportunities would be provided.

*Costs:* Possible revisions to the Comprehensive Plan and Development Code (e.g., policies for land uses, economic development and community design) to support minimal standards for gambling uses. Based upon economic studies, it is likely that the City would incur long-term costs resulting from lost economic development (i.e., other businesses migrate away from gambling uses), limited employment opportunities, costs of supporting policing gaming establishments, costs of social services.

- **Option 2: Allow and Encourage gaming establishments.** This option would allow and encourage/provide incentives for gaming establishments in all commercial districts. Incentives could include lower tax rates, business incentives, and/or limited requirements for development standards to address impacts to the site and the public realm (e.g., architectural character, landscaping, access/parking).

*Benefits:* City revenues from gaming establishments would be maintained; revenues could increase if more customers come to Shoreline establishments because other communities prohibit gambling. The City could also raise tax rates for existing establishments. Entry-level job opportunities would be provided.

*Costs:* With this option, the City would need to revise the Comprehensive Plan and Development Code (e.g., policies for land uses, economic development and community design) and City tax structure to create policies, incentives, minimal

standards for gambling uses. As with Option 1, economic studies indicate that the City would incur long-term costs resulting from lost economic development limited variety of employment opportunities, costs of supporting policing gaming establishments and providing social services.

- **Option 3: Allow gaming establishments with conditions and restrictions.** This option would limit gaming establishments to selected zones/areas of the City (e.g., regional business, gaming district). This option requires adoption of special development standards to address impacts to the site and to the public realm (e.g., architectural character, setbacks, access/parking, landscaping, lighting, signage).

*Benefits:* New gaming establishments could be located in a single zone, such as a regional business zone which has adequate visibility and access to support such a regional use. (Note: It is also possible to cluster these uses in a single "combat zone" district. However, Shoreline has limited space available for creating such a district. Additionally, national studies indicate that this single-use locational system is frequently a strong disincentive to other economic development and that crime increases occur in such clustered districts.)

New gaming establishments would be required to be consistent with our existing Comprehensive Plan and with development standards to address land use impacts and to protect public safety (e.g., architectural character, landscaping, signage, lighting, access/parking, and operating standards). Gaming establishments could be allowed only at specific locations.

City revenues could increase if Shoreline's more attractive gambling venues enjoy more business and/or if other communities restrict gambling activities. Entry-level job opportunities would exist. The City could also raise tax rates for gambling uses.

*Costs:* The City would need to develop specific Development Code requirements (e.g. conditional use, site plan review) to provide special standards for gambling uses. The City would incur long-term costs because economic development is less likely to occur near to gambling uses. Also, new employment opportunities are less than with more diverse economic development. The City continues to incur costs of supporting policing gaming establishments and providing social services.

- **Option 4: Prohibit new gaming establishments.** This option prohibits new gaming establishments. Existing gaming establishments may remain as non-conforming uses for a maximum time period to be established by the City. This non-conforming status would prevent intensified or expanded operations. Limited remodeling could be allowed.

*Benefits:* Existing gambling uses would be permitted to continue operations as non-conforming uses, either indefinitely or amortized to a specific termination date (e.g., 2 years, 5 years, 7 years). Remodeling would need to be consistent with the Comprehensive Plan and Development Code standards for architectural features, landscaping, signage, lighting, access/parking, etc.

With this option, City revenues from gaming establishments may be maintained; revenues could increase if Shoreline were to raise its tax rate and/or if more customers come to Shoreline establishments because other communities prohibit gambling. Entry-level job opportunities would be provided.

*Costs:* The Gambling Commission and the State Office of the Attorney General have reported (in unofficial opinions) that a jurisdiction may ban all gaming, but cannot ban only new gaming establishments. City attorneys in the region believe that the law does permit jurisdictions to ban new gaming only, but there is no case law in this area. If Shoreline elects to allow existing gaming establishments and ban only new establishments, it is likely that the City would be party to/incur costs for a legal action testing this decision in the courts.

If the City elects to pursue this option, existing gaming uses that are permitted to continue operations will become non-conforming uses. As a non-conforming use, with a specified "sunset" date, an establishment may be less likely to keep up a property, which could discourage new area uses in the short term. The City would incur middle-term costs based upon the fact that other economic development is less likely to occur until the sunset date occurs. With this option, employment opportunities remain static. Other economic and social costs (e.g., policing, social services) would continue as well.

- **Option 5: Prohibit all gaming establishments.** This option prohibits all new gaming establishments. Existing establishments are required to cease operations immediately. New establishments are not permitted. State law permits a local jurisdiction to ban all gaming establishments.

*Benefits:* Lands currently devoted to gaming establishments would become available for other types of economic development that are more consistent with the City's Comprehensive Plan goals and policies for land use, economic development and community design. Neighboring uses could be encouraged to remain in Shoreline and new uses might be encouraged to come into the City. The City ceases to incur costs of supporting policing gaming establishments and providing social services. New uses could create more diverse employment opportunities and a more diverse, stable economic base.

*Costs:* It is unlikely that development to replace or enhance our economic base would be immediately attracted to the community. Economic development is a long-term effort and Shoreline currently has underdeveloped, available commercial land. Unless new economic development immediately replaces gaming establishments, the City will incur a short-term to middle-term loss in revenue and jobs.

## V. RECOMMENDATIONS

Staff recommends that your City Council:

- 1) Consider options for policies and guidelines to regulate food and drink establishments conducting social card games, punch boards or pull tabs in the City of Shoreline.
- 2) Schedule a public hearing to receive public comment with respect to the regulation of food and drink establishments conducting social card games, punch boards, or pull tabs in the City of Shoreline.

## I. FOOTNOTES

The following citations provide a representative sample of resources on specific issues concerning gaming. Related information may also be found in other articles included in the Bibliography for this Staff Report. The Bibliography is found in Exhibit C.

### Page 15

1. "State and Local Government Regulation of Gaming: Recent Canada and U.S. Case Law" Craig B. MacFarlane and Anthony Capuccinello, (1998). Page 2  
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"Gambling in California", Roger Dunstan, January, 1997, Chapter VI

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"The Explosive Growth of Gambling in the United States", Senator Paul Simon, Congressional Record for the 104<sup>th</sup> Congress  
"Gambling on Economic Development", Amy Jinker-Lloyd, American City & County, July 1996  
"Gambling in California", Roger Dunstan, Chapter IX  
"Gambling, Economic Development, and Historic Preservation", Christopher Chadbourne, et al, Public Investment, page 1-4  
"The Gambling Glut", Ellen Perlman, Finance, 1996  
"Gaming in America: The New Wave of Urban Economic Development", Donald E. Hunter, et al, Commentary, Spring 1995  
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3. "Gambling in California", Roger Dunstan, Chapter IX  
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Please Also See Additional References in Footnote #2

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7. "Gaming Casino Traffic," Paul C. Box, et al, ITE Journal, March 1998  
"Loading the Dice: Zoning Gaming Facilities", Zoning News 1994
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9. "America's House of Cards: How the Casino Economy Robs the Working Poor", Marc Cooper, The Nation, February, 1996  
"Case Against Legalized Gambling" National Coalition on Gambling: Gambling Information II, January 1999  
"Compulsive Gambling Trends, Profiles and Their Importance to the Gambling Industry, National Coalition on Gambling: Gambling Information II, January 1999  
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16. "America's House of Cards: How the Casino Economy Robs the Working Poor", Marc Cooper, The Nation, February, 1996
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- Please Also See Additional References in Footnote #14

## **VI. ATTACHMENTS**

Exhibit A: Listing of Cities Prohibiting Gambling Activities

Exhibit B: City of Renton Washington , Ordinance 4691, Defining, Permitting, Restricting and Prohibiting Gambling Operations (December, 1997)

Exhibit C: Bibliography: Gambling - Reports and Articles

Exhibit D: Letter from State of Washington Gambling Commission to the City of Renton (February 1999)

Exhibit E: Memorandum from the Office of the Attorney General

Exhibit F: City of Shoreline Comprehensive Plan Framework Goals

Exhibit G: City of Shoreline Comprehensive Plan Land Use Element (Selected Policies and Goals)

Exhibit H: City of Shoreline Comprehensive Plan Economic Development Element (Selected Policies and Goals)

Exhibit I: City of Shoreline Comprehensive Plan Community Design Element (Selected Policies and Goals)

EXHIBITS

**WASHINGTON STATE GAMBLING COMMISSION**

P.O. Box 42400  
Olympia, WA 98504-2400  
1-800-345-2529  
(360) 438-7654  
TDD (360) 438-7638

**Communications and Legal Department**

**FAX (360) 438-7636**

**Fax Transmission Cover Sheet**

DATE: June 3, 1999

TO: Lenore Blauman, City of Shoreline

FAX #: (206) 546-8761

Telephone: \_\_\_\_\_

FROM: Robin Brown

Telephone: (360) 438-7654 ext. 423

Pages (including cover sheet): 2

This is the list we have. We are not tracking cities who've imposed moratoriums. The City of Kent will be added to this list, as they've just banned card rooms. I hope this helps!

If you have not received both pages, please call Robin, at (360) 438-7654, ext. 423.

**CONFIDENTIALITY NOTICE**

The information contained in this telefacsimile transmission is confidential and intended for use only by the person it is addressed to. Any photocopying, faxing, or dissemination of any kind is prohibited without permission of the sender. If you have received this transmission in error, please immediately call the telephone number above.

08/98

**CITIES PROHIBITING GAMBLING ACTIVITIES**  
Revised December 1995

<u>City</u>	<u>Prohibited Gambling Activities</u>
Algona	Public Card Rooms
Battle Ground	Public Card Rooms
Bellevue	Public Card Rooms
Bothell	Public and Social Card Rooms
Brier	Punchboards and Pull Tabs; Public and Social Card Rooms
Camas	Public Card Rooms
Clyde Hill	Punchboards and Pull Tabs; Public and Social Card Rooms
Dupont	Profit Seeking Amusement Games
Issaquah	Public Card Rooms
Lake Forest Park	Punchboards and Pull Tabs; Public and Social Card Rooms; FRE's; Bingo for which a gambling license is required.
Lynden	Punchboards and Pull Tabs; Public and Social Card Rooms; Profit Seeking Amusement Games
Lynnwood	Public Card Rooms; Profit Seeking Amusement Games
Mercer Island	Punchboards and Pull Tabs; Public Card Rooms
Mill Creek	Public Card Rooms; Profit Seeking Amusement Games (Punchboards/Pull Tabs allowed thru 12/31/97)
Normandy Park	All Gambling Activities
Redmond	Punchboards
Renton	Punchboards
Seattle	Public and Social Card Rooms
Snohomish	Profit Seeking Amusement Games

Snoqualmie	Public Card Rooms
Tukwila	Punchboards; FREs (except bingo and raffles)
Vancouver	Public Card Rooms
Washougal	Public Card Rooms
Woodland	Public and Social Card Rooms (Class "R" Card Rooms Allowed)
Woodinville	Public and Social Card Rooms
Yacolt	Public and Social Card Rooms; FREs

**COUNTIES PROHIBITING GAMBLING ACTIVITIES**  
Revised July 1997

<b><u>County</u></b>	<b><u>Prohibited Gambling Activities</u></b>
----------------------	--

Clark	Public Card Rooms
-------	-------------------

NOTE: The following cities are incorporated and are not affected by CLARK COUNTY prohibition. See table of cities for individual prohibitions of gambling activities.

Battleground	Camas	LaCenter	Ridgefield
Vancouver	Washougal	Yacolt	

CITY OF RENTON, WASHINGTON

ORDINANCE NO. 4691

AN ORDINANCE OF THE CITY OF RENTON, WASHINGTON, AMENDING SECTIONS 4-31-2, 4-31-10.1.C, 4-31-10.2.C, 4-31-10.4.B.2, 4-31-10.5.C, 4-31-11.1.B.2, 4-31-11.2.B.2, 4-31-12.B.2 AND 4-31-16.C.6 OF CHAPTER 31, ZONING CODE, OF TITLE IV (BUILDING REGULATIONS), OF ORDINANCE NO. 4260 ENTITLED "CODE OF GENERAL ORDINANCES OF THE CITY OF RENTON, WASHINGTON" BY ADDING CARD ROOMS AS A DEFINITION, ADDING CARD ROOMS AS A PROHIBITED USE IN THE MIXED COMMERCIAL (CM), COMMUNITY COMMERCIAL (CB), CONVENIENCE COMMERCIAL (CC), AND COMMERCIAL OFFICE (CO) ZONES, AND ADDING CARD ROOMS AS A PERMITTED SECONDARY USE IN THE ARTERIAL COMMERCIAL (CA), LIGHT INDUSTRIAL (IL), MEDIUM INDUSTRIAL (IM), AND HEAVY INDUSTRIAL (IH) ZONES.

THE CITY COUNCIL OF THE CITY OF RENTON, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION I. Section 4-31-2, Definitions, of Chapter 31, Zoning Code, of Title IV (Building Regulations), of Ordinance No. 4260 entitled "Code of General Ordinances of the City of Renton, Washington" is hereby amended by adding the following definition which reads as follows:

CARD ROOMS: A use governed pursuant to the provisions of RCW 9.46, 1973 Gaming Act and licensing by the Washington State Gambling Commission that is ancillary to a permitted use where food and beverages are served on the premises and whose purpose is to serve as a commercial stimulant to the principal activities associated with the primary use.

SECTION II. Sections 4-31-10.1.C, 4-31-10.4.B.2, 4-31-11.1.B.2, 4-31-11.2.B.2, 4-31-12.B.2 and 4-31-16.C.6 of Chapter

31, Zoning Code, of Title IV (Building Regulations), of Ordinance No. 4260 entitled "Code of General Ordinances of the City of Renton, Washington" are hereby amended by adding the following subsections which read as follows:

4-31-10.1.C.6: The operation and conduct of any licensed premises or facility used to play social card games as governed by RCW 9.46, the Gaming Act, as amended.

4-31-10.4.B.2.o: Card Rooms: Card rooms when ancillary to a permitted primary use where food and beverages are served on the premises and located in an area with an Employment Area - Valley land use designation as shown on the City's Comprehensive Plan Land Use Map, and located south of I-405.

4-31-11.1.B.2.m: Card Rooms: Card rooms when ancillary to a permitted primary use where food and beverages are served on the premises and located in an area with an Employment Area - Valley land use designation as shown on the City's Comprehensive Plan Land Use Map, and located south of I-405.

4-31-11.2.B.2.n: Card Rooms: Card rooms when ancillary to a permitted primary use where food and beverages are served on the premises and located in an area with an Employment Area - Valley land use designation as shown on the City's Comprehensive Plan Land Use Map, and located south of I-405.

4-31-12.B.2.j: Card Rooms: Card rooms when ancillary to a permitted primary use where food and beverages are served on the premises and located in an area with an Employment Area - Valley



land use designation as shown on the City's Comprehensive Plan Land Use Map, and located south of I-405.

4-31-16.C.6: The operation and conduct of any licensed premises or facility used to play social card games as governed by RCW 9.46, the Gaming Act, as amended.

SECTION III. Sections 4-31-10.2.C and 4-31-10.5.C of Chapter 31, Zoning Code, of Title IV (Building Regulations), of Ordinance No. 4260 entitled "Code of General Ordinances of the City of Renton, Washington" are hereby amended to read as follows:

4-31-10.2.C: Prohibited Uses and Unclassified Uses: Any uses not specifically listed as primary, secondary, accessory or conditional uses shall be prohibited; except those uses determined by the Zoning Administrator to be: 1) in keeping with the purpose and intent of the zone; and 2) similar in nature to a specifically listed primary, secondary, accessory or conditional use. In addition, the operation and conduct of any licensed premises or facility used to play social card games as governed by RCW 9.36, the Gaming Act, as amended, shall also be prohibited.

4-31-10.5.C: Prohibited Uses and Unclassified Uses: Any uses not specifically listed as primary, secondary, accessory or conditional uses shall be prohibited; except those uses determined by the Zoning Administrator to be: 1) in keeping with the purpose and intent of the zone; and 2) similar in nature to a specifically listed primary, secondary, accessory or conditional

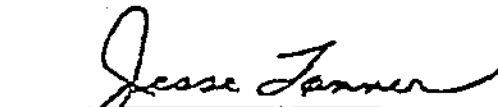
use. In addition, the operation and conduct of any licensed premises or facility used to play social card games as governed by RCW 9.36, the Gaming Act, as amended, shall also be prohibited.

SECTION IV. This Ordinance shall be effective upon its passage, approval, and five days after publication.

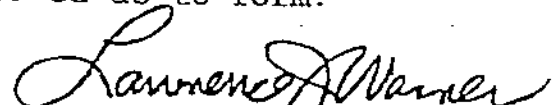
PASSED BY THE CITY COUNCIL this 1st day of December, 1997.

  
Marilyn J. Petersen, City Clerk

APPROVED BY THE MAYOR THIS 1st day of December 1997.

  
Jesse Tanner, Mayor

Approved as to form:

  
Lawrence J. Warren, City Attorney

Date of Publication: 12/5/97 (Summary)

ORD.670:11/20/97:as.

### Bibliography: Gambling Articles and Reports

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## Exhibit C

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Washington State Gambling Commission. "Licensed Operators' Activity for the Year Ended June 30, 1998." Washington State Gambling Commission, (30 June 1998).

Washington State Gambling Commission Communications and Legal Department. "Agency Overview." Washington State Gambling Commission, (1999).

*These documents and other reference reports are on file with the City Clerk for public review and in the City Council Office for review by Councilmembers.*

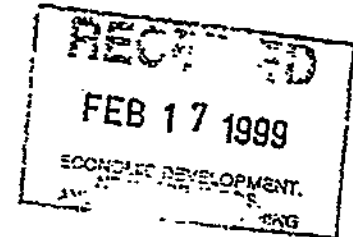


STATE OF WASHINGTON  
GAMBLING COMMISSION

P.O. Box 42400 • Olympia, Washington 98504-2400 • (360) 438-7654 • TDD (360) 438-7638 • FAX (360) 438-8652

February 9, 1999

Michael Katterman  
City of Renton  
1055 South Grady Way  
Renton, Washington 98055



**RE: PENDING REQUESTS FOR MINI CASINOS IN RENTON**

Dear Mr. Katterman:

We spoke a few weeks ago about the City of Renton's request that the Gambling Commission not grant pending "applications" to offer house banked games to Diamond Lil's and Schumsky's All City Diner. The law allowing card rooms to bank their games was passed in 1997 and the Gambling Commission has been approving businesses for this under a "pilot study." Under the pilot study, which will end June 30, businesses, which are already licensed to operate card rooms, enter into contracts with the Commission to offer house banked games. There is not an "application" and the business does not receive another "license." After July 1, when the study is complete, any business operating house banked games will receive a new Class F license.

As we discussed, a local jurisdiction's ability to "zone" a particular type of gambling business out of some areas, but not all areas, is not clear. It also is not clear whether local jurisdictions can allow gambling non-conforming uses or whether moratoriums on new gambling, which a few jurisdictions have adopted, are permissible. Although we cannot give legal advice, a few statutes in the Gambling Act address local jurisdictions' authority in these areas. For example, RCW 9.46.285 states that the Gambling Act "constitutes the exclusive legislative authority for the licensing and regulation of any gambling activity and the state preempts such licensing and regulatory functions, except to the power and duties of any city, town, city-county, or county which are specifically set forth in this chapter." In addition, RCW 9.46.295 states that local jurisdictions "may absolutely prohibit gambling activities, but may not change the scope of license, any or all of the gambling activities for which the license was issued."

Furthermore, RCW 9.46.070(2) provides that the Gambling Commission cannot "deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued." The Gambling Commission has not taken a formal position on these issues, but we expect that they will likely be litigated by licensees and local jurisdictions

Michael Katterman, City of Renton  
February 9, 1999  
Page 2

in the coming months. We have also requested an opinion from our Assistant Attorney General on these issues. In the meantime, we are happy to work with the local jurisdictions and let them know which card rooms are scheduled for approval for house banking. Diamond Lil's is scheduled for approval to offer house banked card games at the Commission meeting this week, on Thursday, February 11. The meeting will be at Cavanaugh's at Capitol Lake (formerly Holiday Inn Select and the Westwater Inn), 2300 Evergreen Park Drive in Olympia, phone number (360) 943-4000. The meeting will begin at 1:30 p.m. If Diamond Lil's is approved, they would be able to begin offering house banked games as soon as the contract is signed, which usually occurs the same day. Schumsky's All City Diner has also requested to offer house banked games, but probably will not be approved until after July 1, assuming that they meet all of the requirements for such games.

I hope this information is helpful. If you have any questions, please contact me at (360) 438-7654, extension 307.

Sincerely,



Ed Fleisher  
Deputy Director of Policy and Government Affairs

Cc: The Honorable Jesse Tanner, Mayor



Christine O. Gregoire

# ATTORNEY GENERAL OF WASHINGTON

1125 Washington Street SE • PO Box 40100 • Olympia WA 98504-0100

## MEMORANDUM

March 8, 1999

**TO:** BEN BISHOP, Director, Washington State Gambling Commission

**FROM:** JONATHAN T. McCOY, Assistant Attorney General

**SUBJECT:** Authority of Local Jurisdictions to Regulate Gambling Commission  
Licensed Activities

This memo is provided as a response to advice regarding local jurisdictions who have taken various actions affecting Licensees of the Gambling Commission; specifically, card room licensees who are seeking to operate house-banked card games.

### ISSUE PRESENTED

**Summary of proposed activity:** Several local jurisdictions including both municipalities and counties have enacted ordinances or taken interim measures which are directed at controlling location of "mini-casinos" within their jurisdictions. I have been asked to analyze their authority in light of RCW 9.46.285 which gives the Gambling Commission exclusive authority for the licensing and regulation of any gambling activity.

### BRIEF RESPONSE

Pursuant to RCW 9.46.285 the Gambling Commission has exclusive authority to license and regulate gambling activities authorized under the Gambling Act. This provision specifically preempts any local jurisdiction's authority to do so, except as specifically outlined in the Act. Nevertheless, local jurisdictions may take actions that affect licensed activities but do not directly conflict with the provisions of the Act and the Gambling Commission's specific authority. It is therefore necessary to address the specific actions taken by a jurisdiction and determine whether they conflict with this licensing and regulatory function. To the extent that they conflict, they are preempted by state law. To the extent that they do not conflict, they are authorized.

### APPLICABLE LAW AND DEFINITIONS

Article XI, section 11 of the Washington Constitution provides that "[a]ny county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws."

ATTORNEY GENERAL OF WASHINGTON

Authority of Local Jurisdictions to Regulate Gambling Commission Licensed Activities  
March 8, 1999

Page 2

RCW 9.46.285 entitled, **Licensing and regulation authority, exclusive**, provides:

This chapter constitutes the exclusive legislative authority for the licensing and regulation of any gambling activity and the state preempts such licensing and regulatory functions, except as to the powers and duties of any city, town, city-county, or county which are specifically set forth in this chapter. Any ordinance, resolution, or other legislative act by any city, town, city-county, or county relating to gambling in existence on September 27, 1973 shall be as of that date null and void and of no effect. Any such city, town, city-county, or county may thereafter enact only such local law as is consistent with the powers and duties expressly granted to and imposed upon it by chapter 9.46 RCW and which is not in conflict with that chapter or with the rules of the commission.

RCW 9.46.295 further provides that

Any license to engage in any of the gambling activities authorized by this chapter as now exists or as hereafter amended, and issued under the authority thereof shall be legal authority to engage in the gambling activities for which issued throughout the incorporated and unincorporated area of any county, except that a city located therein with respect to that city, or a county with respect to all areas within that county except for such cities, may absolutely prohibit, but may not change the scope of license, any or all of the gambling activities for which the license was issued.

ANALYSIS

As a general rule, "[m]unicipal police power is as extensive as that of the legislature, so long as the subject matter is local and the regulation does not conflict with general laws. . . . The scope of police power is broad, encompassing all those measures which bear a reasonable and substantial relation to promotion of the general welfare of the people." Covell v. City of Seattle, 127 Wn.2d 874, 878, 905 P.2d 324 (1995) *quoting* Hillis Homes, Inc. v. Snohomish County, 97 Wn.2d 804, 808, 650 P.2d 193 (1982) (itself *quoting* State v. City of Seattle, 94 Wn.2d 162, 165, 615 P.2d 461 (1980)). Nonetheless, "Article XI, section 11 requires a local law yield to a state statute on the same subject matter if that statute 'preempts the field, leaving no room for concurrent jurisdiction,' or 'if a conflict exists such that the two cannot be harmonized.'" Weden v. San Juan County, 135 Wn.2d 678, 691, 958 P.2d 273 (1998); Brown v. City of Yakima, 116 Wn.2d 556, 559, 561, 807 P.2d 353 (1991).

RCWs 9.46.285 and .295 constitute "general laws" under the provisions of Article XI, section 11 of the Washington Constitution. Moreover, pursuant to the explicit terms of RCW 9.46.285 "the state preempts such licensing and regulatory functions" except those specifically reserved elsewhere in the chapter. Therefore any action which directly conflicts with that authority is "null and void" in accordance with RCW 9.46.285.



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But the Supreme Court has generally been solicitous of local jurisdictional authority and "An ordinance must yield to state law only 'if a conflict exists such that the two cannot be harmonized.'" Brown, 116 Wn.2d at 561; accord City of Bellingham v. Schampera, 57 Wn.2d 106, 111, 356 P.2d 292, 92 A.L.R.2D 192 (1960). "In determining whether an ordinance is in 'conflict' with general laws, the test is whether the ordinance permits or licenses that which the statute forbids and prohibits, and vice versa. Judged by such a test, an ordinance is in conflict if it forbids that which the statute permits[.]" Weden, 135 Wn.2d at 693 (citations omitted); Schampera, 57 Wn.2d at 111.

Following this analysis, it is necessary to determine, looking at the specific provisions of the local ordinance, whether the ordinance "forbids that which the statute permits". In this case, whether the local ordinance seeks to prohibit an activity which is within the purview of the Gambling Commission to license and regulate. If it does, the ordinance cannot affect the licensed activity; if it does not, the local ordinance is authorized.

The ordinances have taken several different forms, so I will not address them all individually, but I can address them generally as they apply to gambling activities licensed by the Commission. The action of the ordinances fall roughly into five categories: Licensing of card rooms; moratoria prohibiting new licenses; moratoria on new activities; zoning against gambling activities in certain areas; and zoning against activities which support a gambling activity.

1. *Licensing of Card Rooms*

Several jurisdictions have taken the unusual step of requiring food and drink establishments who would otherwise qualify to conduct "commercial stimulant" activities to obtain special licenses from the jurisdiction in order to conduct card room activities. This procedure is clearly prohibited. By its terms, RCW 9.46.285 specifically provides "the exclusive legislative authority for the licensing and regulation of any gambling activity" and further explicitly preempts "any city, town, city-county, or county" from attempting such licensing. In such a case, the Gambling Commission has no obligation to consider the effect of the local jurisdiction's effort which is void ab initio. "Municipalities are constitutionally vested with the authority to enact ordinances in furtherance of the public health, safety, morals, and welfare. However, the plenary police power in regulatory matters accorded municipalities by Const. Art. 11, §11, ceases when the state enacts a general law upon the particular subject, unless there is room for concurrent jurisdiction." Baker v. Snohomish County Planning, 68 Wn. App. 581, 585, 841 P.2d 1321 (1992); Lenci v. Seattle, 63 Wn.2d 664, 669, 388 P.2d 926 (1964). In this case there is clearly no room for concurrent jurisdiction.

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### 2. *Moratoria prohibiting new licenses*

In this case, the answer turns on whether the licensed activities already exist within the jurisdiction. If there are not currently licensed activities which are operating within the local jurisdiction, such an ordinance would not appear to be in conflict with RCW 9.46.295. RCW 9.46.295 authorizes local jurisdictions to "absolutely prohibit" any or all gambling activities. It does not specify what form such prohibition may take, except that it may not "change the scope of" a license. If, on the other hand, existing licenses have been issued, the question is more nuanced. If the moratorium prohibits all of a particular licensed activity, including existing licenses (e.g. all public card rooms), it would appear to comport with RCW 9.46.295 which by its terms seems to authorize prohibition even after licenses have been granted (although there may be other issues which arise under such an interpretation which are beyond the scope of this Memorandum). If the moratorium only prohibits *new* licenses, however, it would seem to conflict with the statute, since the local jurisdiction does not have authority to determine which licensees are qualified,

### 3. *Moratoria on new activities*

Some ordinances seek to prohibit only "mini-casinos" but not card rooms generally. An ordinance in such a form would directly conflict with the existing statute and thus be prohibited. Under RCW 9.46.295 a local jurisdiction may prohibit a "gambling activity" but it may not change the scope of a license. As the Gambling Act is currently drafted, house-banked card games are an authorized form of "social card game" which may be played in public card rooms. "Social card games" are the authorized activity, and the statute does not distinguish between house-banked and non-house-banked games in this authorization. Any effort to distinguish between forms of card games that could be played in an otherwise authorized card room would be regulatory in nature, and directly conflict with the Gambling Commission's authority.

### 4. *Zoning against gambling activities in certain areas*

Some ordinances prohibit gambling activities in certain areas under the local jurisdiction's zoning authority. This is perhaps the most problematic approach. Nonetheless, I believe that such an approach does conflict with the Gambling Act. RCW 9.46.295 specifies that "Any license to engage in any of the gambling activities authorized by this chapter... shall be legal authority to engage in the gambling activities for which issued." Under RCW 9.46.285, only the Gambling Commission has the authority to grant such licenses. Other provisions of the Act authorize specific activities to qualified licensees, such as RCW 9.46.0325 which authorizes activities by any business "primarily engaged in the selling of food or drink for consumption on the premises". So long as the underlying activity is authorized by local ordinance or zoning code, it is beyond the purview of the local jurisdiction to determine whether they may also engage in gambling activities on that premises as it would be "an ordinance [that] forbids that

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which the statute permits[.]” It is solely within the Gambling Commission’s authority to make that determination.

5. *Zoning against activities which support a gambling activity*

Some ordinances prohibit, primarily through zoning, certain underlying activities that, if authorized, would support gambling operations. For example, a local jurisdiction may prohibit alcoholic sales within a certain distance from a school or church. Such an ordinance would not, of itself, conflict with the Gambling Act, since the local jurisdiction was not directly prohibiting or authorizing the gambling activity, or limiting the scope of a license. Generally speaking, therefore, a local jurisdiction would have authority to engage in that sort of zoning activity. (It would still be necessary for the local jurisdiction to meet the other requirements for such an ordinance, i.e., that the statute must promote the health, safety, peace, education, or welfare of the people and bear some reasonable relationship to accomplishing the purpose underlying the statute. Weden, supra at 700.) So long as the ordinance was valid on its face, the Gambling Commission would be bound by its terms.

I hope that this analysis is helpful in your deliberation on these matters. While this Memorandum does not represent the official view of the Attorney General’s Office, it does represent my views as your assigned Assistant Attorney General, and is provided for your use as you see fit.

  
JONATHAN T. McCOY,  
Assistant Attorney General

## **FRAMEWORK GOALS**

Through a series of more than 300 activities (meetings, open houses, surveys and discussions), Shoreline's citizens, the Planning Commission, and the City Council refined the City Council's Vision Statements into the Comprehensive Plan's Framework Goals. These Framework Goals provide the overall policy foundation for the Comprehensive Plan and support the City Council's vision. When implemented, the Framework Goals are intended to preserve the best qualities of Shoreline's neighborhoods today and protect the City's future. To achieve balance in the City's development the Framework Goals must be viewed as a whole and not one pursued to the exclusion of others.

- FG1: Accommodate anticipated levels of growth and enhance the quality of life within the City of Shoreline.**
- FG2: Promote quality building and development that is compatible with the surrounding environment.**
- FG3: Support diverse and affordable housing opportunities which provide for Shoreline's population growth.**
- FG4: Pursue a strong and diverse economy and assure economic development that complements neighborhood character.**
- FG5: Protect the natural environment and preserve environmentally sensitive areas.**
- FG6: Promote improvements to human services.**
- FG7: Assure effective and efficient public investment for quality public services, facilities, and utilities.**
- FG8: Improve multi-modal transportation systems which provide for Shoreline's present and future population.**
- FG9: Provide for wide involvement in community planning decisions.**

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## Land Use Element

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The Land Use Element emphasizes the following Framework Goals:

### ***FRAMEWORK GOALS***

- FG1:** Accommodate anticipated levels of growth and enhance the quality of life within the City of Shoreline.
- FG2:** Promote quality building and development that is compatible with the surrounding environment.
- FG3:** Support diverse and affordable housing opportunities which provide for Shoreline's population growth.
- FG4:** Pursue a strong and diverse economy and assure economic development that complements neighborhood character.
- FG5:** Protect the natural environment and preserve environmentally sensitive areas.
- FG6:** Promote improvements to human services.
- FG7:** Assure effective and efficient public investment for quality public services, facilities, and utilities.
- FG8:** Improve multi-modal transportation systems which provide for Shoreline's present and future population.
- FG9:** Provide for wide involvement in community planning decisions.

## ***Intent***

Land use patterns have a direct impact on the quality of life, personal comfort, and convenience and the safety of citizens within the City. The Land Use policies are intended to guide land use designations and zoning decisions and to provide opportunities for future development in suitable locations for the next 20 years. Through land use designations, the Land Use policies and maps identify the building intensity and density recommended for each area of the City (see Figure LU-1 at the end of this Element). The recommended designations help to achieve the City's vision by providing for planned growth, encouraging affordable housing, protecting existing neighborhoods and uses, safeguarding the environment, and maintaining Shoreline's sense of community.

## ***Background and Context***

Shoreline is a mature community with a long history. Its earliest land uses were associated with the railroad community of Richmond Beach: homes, stores, and the railroad and its facilities. Other early land uses were associated with the trunk road, now SR 99: homes, stores, and road and interurban facilities.

The Growth Management Act (GMA) requires that cities provide a Comprehensive Plan with a Land Use Element to designate the proposed general distribution, general location, and extent of the uses of land. The Act further specifies that the Land Use Element be the foundation of a Comprehensive Plan. This process of designating future land uses must account for future population growth and must be supported by adequate levels of public facilities and services. In this respect, the Land Use Element is an explicit statement of the ultimate vision for the City and determines the system and capacity of the infrastructure necessary to serve the land uses.

One of the features of Shoreline's high quality of life is its attractive and vital residential neighborhoods. Part of this quality results from the trees and views in the neighborhoods. The variety of housing types adds immensely to Shoreline's diversity and provides safe haven for many families. Encouraging this vitality and diversity will help maintain Shoreline's quality of life for our children. Allowing for more retail and commercial development will provide a broader choice of goods and services in the community. Encouraging entertainment and cultural uses will enrich the community and provide activities for all age groups within the City. Providing opportunities for businesses will help provide employment opportunities for Shoreline's citizens. And finally, suitable locations for industrial and institutional uses will protect the City's neighborhoods and provide those essential facilities needed by every community.

The visioning effort, which the City undertook in the beginning of the planning process, provided the starting point for the Land Use Element. As part of the planning process, the citizens and/or property owners discussed the issues they believed to be important to address in this Plan. The issues are listed below:

- preservation and enhancement of attractive and safe neighborhoods
- preservation and enhancement of the variety of available and reasonably priced housing
- types and amounts of new housing to be allowed
- locations of new housing
- more opportunities for employment and shopping
- revitalization of commercial areas
- limited funding sources for the City, based on the land use pattern
- lack of available vacant land, leading to the need to encourage the redevelopment of existing areas
- compatibility of new development with existing uses
- transitional uses, financial impacts and time frames for areas that might redevelop
- kind of redevelopment to be allowed, even encouraged, for commercial uses
- ways to increase the vitality of existing business areas
- ways to assure that institutions and industrial uses are compatible with and respect adjacent uses and infrastructure
- ways to assimilate annexation areas and meet their needs within the existing City resources
- aesthetic improvements to existing non-residential development
- adequacy of pedestrian and vehicle mobility amenities
- protection of public health, welfare and safety

The preliminary recommended land use designations were founded on: 1) the location of sensitive areas; and 2) the intensity or lack of intensity that the land can sustain. Subsequently the land uses designations were refined (see Figure LU-1: Land Use Designations at the end of the Land Use Element) based on:

- the requests of citizens and property owners as expressed during the citizen participation process for the Plan;
- findings and analyses conducted in the Draft Environmental Impact Statement (DEIS) and in the Final Environmental Impact Statement (FEIS), including information about:
  - the existing pattern of settlement;
  - the historic patterns of settlement;
  - the transportation corridors that serve these uses;
  - the real estate market's drive to develop areas;
  - the capital facilities and utilities needed to service these areas;
  - the need to accommodate growth;
  - the land uses of cities adjacent to Shoreline; and
  - previous land use decisions made by King County and various utility providers before the City incorporated.

Although Metropolitan King County projected a capacity of 1,600-2,200 new housing units, the Planning Commission and the City Council of Shoreline felt it was important to provide some additional capacity. They increased the top of the housing range from 2,200 new housing units to 2,400 new housing units.

The EIS indicates that 1,600-2,400 new housing units can be accommodated, based on the land use capacity analysis, as well as the Comprehensive Plan Land Use Map (Figure LU-1) and the Land Use Designations, presented later in this Chapter. Housing units could be provided through new development on vacant lands and/or through redevelopment of underutilized lands and/or aging housing stock. New housing could include traditional single-family homes, cottage housing, accessory units, duplexes, triplexes, townhomes, and multi-family housing. Approximately 1,950 units could be provided on properties designated for residential use and for mixed use. The remaining units could be accommodated in those commercial designations which allow residential uses.

### **Aurora Corridor SubArea**

The City of Shoreline prepared an Aurora Corridor SubArea Study (Summer and Fall 1996, Winter 1997) with the intent of providing research on the corridor and land use alternatives for the Comprehensive Plan. The objective was to create a thriving and pleasing commercial core that enhances the entire community. The emphasis of this study was to ensure the economic feasibility for a land use alternative and to devise strategies to assure that implementation of improvements will be accomplished. Related to this emphasis were other issues such as urban design, transportation, pedestrian safety, crime prevention neighborhood protection and utility services.

The Aurora Corridor Subarea Study was based upon the following key assumptions:

- use a phased approach to any future changes in the Corridor
- encourage and expect public private partnership
- use sound market principles in developing the Plan
- increase the City's overall tax base by making the Corridor more effective and efficient
- create a sense of place for the City
- emphasize the positive uses as attributes of the Corridor
- improve the visual and physical ambiance of the Corridor
- buffer neighboring uses
- preserve and enhance existing businesses
- amend zoning and other codes to be consistent with the Subarea study.

Issues in the Corridor included:

- constrained lot sizes
- vacant, blighted, deteriorating and underutilized properties
- inadequate pedestrian safety, few pedestrian crossings
- lack of a pedestrian/bike trail along the Seattle City Light right of way
- varying levels of stability and financial health of existing businesses
- compatibility with single-family homes on the perimeter of the corridor,
- traffic congestion during peak hours



- "strip" development with undefined street edges,
- automobile safety
- unaesthetic appearance of overhead wires, extensive pavement, limited landscape improvements, proliferation of signs
- crime and safety problems

### **North City Study**

In the Winter of 1997 and Spring of 1998, the City of Shoreline staff worked with property owners, merchants, tenants and neighboring residents of the North City Business District to conduct an assessment of the potential to revitalize North City. The issues confronting the district were under-utilization of land, poor aesthetic appearance, parking, safety of pedestrians and autos, cleanliness of the district, leakage of sales to other areas. From this work came a stronger merchants association, ideas on physical improvements, and ways to capture a larger share of the market. The Shoreline City Council recognized the importance of the District and the strides taken by the citizens and merchants by making a budget allocation for staff time to assist the Merchant's Association. Policies are included in this chapter to address the revitalization of this area through a Main Street Program approach. This approach emphasizes:

*Organization:* Building consensus and influence of people who have a role in revitalization.

*Design:* Enhancing the physical appearance and function of the District.

*Promotion:* Marketing the District's assets to investors, potential customers, and new businesses.

*Restructuring:* Strengthening the economic base while expanding new opportunities.

### **Existing Conditions**

With growth during and following the Second World War, Shoreline's residential communities burgeoned, and services and shops expanded to meet this new growth. Today, Shoreline has a preponderance of residential uses, supporting commercial and retail uses, various institutional uses and a few industrial uses. Less than 10% of the total land remains vacant. Single lots scattered throughout the City (rather than large contiguous tracts of land) primarily characterize the vacant land. These uses and transportation corridors make up our existing land use pattern.

Residential development accounts for approximately 64% of the land in use in the community. Single-family residences predominate. Multi-family residential development is primarily located near the commercial areas along Aurora Avenue and in neighborhood centers (e.g., Richmond Beach, Echo Lake, North City and Annexation Area A).

Commercial development including services, retail sales, and light industrial uses (e.g. manufacturing, wholesale, transportation, communications and utilities) accounts for approximately 6% of the land in use in the community. Large commercial uses within the City are located primarily along Aurora Avenue. Smaller commercial centers are located throughout the City and include the North City, Ridgecrest, and Richmond Highlands business districts. Industrial uses are limited.

About 20% of the land in Shoreline, not including roadways, is occupied by uses owned by non-profit or public entities which are exempt from property taxes. These uses include institutions, cemeteries, schools, parks and churches.

## ***Goals and Policies***

**Goal LU 1: To assure that the land use pattern of the City encourages needed, diverse, and creative development, protects existing uses, safeguards the environment, reduces sprawl, promotes efficient use of land, encourages alternative modes of transportation and helps to maintain Shoreline's sense of community.**

### **Policies**

- LU1:** Preserve environmental quality by taking into account the land's suitability for development and directing intense development away from natural hazards and important natural resources.
- LU2:** Encourage attractive, stable, high quality residential and commercial neighborhoods with an appropriate variety of housing, shopping, employment and services such as lawyers, doctors, and accountants.
- LU3:** Assure new industrial uses are appropriately located and impacts are mitigated on surrounding uses.
- LU4:** Assure that existing regional land uses and facilities mitigate their impacts and respect the City's integrity (e.g., I-5, Metro King County Bus Barn, Metro-King County Solid Waste Transfer Station.)
- LU5:** Provide land use incentives for uses that enhance the City's vitality through a variety of regulatory and financial strategies that may include:
- priority permit review
  - changed operating procedures
  - road system reclassification
  - property valuation based on current use
  - reduced impact fees
  - tax abatement
  - methods similar to tax increment financing
  - provision of infrastructure through a private-public partnership
  - transfer of development rights

- master plans for large sites with clustering of development to preserve open space for such areas as the Cedarbrook School Site, The Highlands undeveloped parcel, DNR land adjacent to Fircrest.
- Flexibility of site and building design if performance standards are met which give equal or better design and protection than the zone.

**LU6:** Subject to the Capital Facilities Plan Element and the concurrency regulations described therein, land use designations and zoning may be revised to match the availability of services, funding capabilities, and facilities.

**LU7:** Ensure that the Shoreline City Council can amend the Comprehensive Plan once a year, as established in the Growth Management Act, through an amendment process that includes:

- a detailed statement of what is proposed to be changed and why;
- a statement of anticipated impacts from the change and issues presented;
- a demonstration of why existing Comprehensive Plan guidance should not continue in effect or why existing criteria no longer apply;
- a statement of how the amendment complies with GMA goals, Countywide planning policies, City vision, and the State Environmental Policy Act;
- a statement of how functional plans and capital improvement programs support the change;
- public review of the recommended change, necessary implementation, and alternatives to the change; and
- Planning Commission review and recommendation based on findings of fact.

**LU8:** Ensure that proposed amendments are accompanied by recommended changes to development regulations and modifications to capital improvement programs, subarea, neighborhood and/or functional plans (if any) required to implement the amendment.

### **Annexation Areas**

**Goal LU II: To annex unincorporated areas of King and Snohomish Counties, consistent with Countywide Planning Policies and the City's Vision Statement, which identify with the City and are within Shoreline's Potential Annexation Area.**

### **Policies**

**LU9:** Support annexations that are in the mutual desire, best interest, and general welfare of the community members of the annexation area and the City.

**LU10:** Support annexations:

- in which the areas to be annexed and the City share a community identity;
- which are logical and orderly and are contiguous with the City;

- which complete the geographical areas of interest as indicated in pre-incorporation boundaries;
- which offer benefits and opportunities consistent with City vision statements and framework goals;
- which balance the short-term costs of annexation with long-term gains to the fiscal health of the annexation areas and the City;
- to which the City can provide public safety, emergency and urban services at a level equal to or better than services in existence at the time of annexation;
- where uniform land use, regulations and coordinated impact mitigation are in the best interests of the City and annexation area; and
- which provide improved local governance for the City and the annexation areas.

**LU11:** Provide information to the Shoreline population and populations of the annexation areas as to the impacts of annexation and solicit input from City citizens and those affected populations in the proposed annexation areas.

**LU12:** Support annexations where the areas and the City share impacts and interests (i.e., transportation systems, watershed areas, surface water drainage, water quality and shoreline protection, and environmentally sensitive areas).

**LU13:** Assure that adequate funding is in place or will be available within a reasonable time to support required public facilities and services.

**LU14:** Assure that annexation is timely as determined through joint discussions with the City, citizens and/or property owners.

#### Geographic Areas

**LU15:** Consider the Point Wells area as a logical potential annexation area due to its public road access through the Richmond Beach neighborhood, its contiguous boundary, its use of Shoreline-based public services, and potential development impacts on the City of Shoreline (see Figure I-1 at the end of the Introduction chapter).

**LU16:** Consider Annexation Areas A2 and A3 as logical annexation areas due to their historical relationship with the incorporation movement, their shared community identity, their common topography, sensitive areas, traffic connections and Shoreline based public services (see Figure I-1 at the end of the Introduction chapter).

#### Intergovernmental Cooperation

**LU17:** Work jointly with King and Snohomish Counties and other appropriate jurisdictions to define Potential Annexation Area boundaries under the Growth Management Act.

- LU18: Establish pre-annexation interlocal agreements with King and Snohomish Counties for the development of land within the areas to be annexed. The agreements are to cover the following:
- potential land use and zoning,
  - development standards,
  - impact mitigation,
  - funding transfers, if applicable,
  - growth phasing, and
  - infrastructure and service provision.
- LU19: Ensure that citizens in the Potential Annexation Areas are invited to participate in land use, shoreline management, and zoning changes for the annexation areas.
- LU20: Ensure that newly annexed areas assume an equitable share of the City's bonded indebtedness.
- LU21: Ensure that newly annexed areas provide resources to preserve and/or improve environmental quality, where appropriate, through identification and protection of watersheds, open space corridors, preservation of environmentally sensitive areas, water quality, dedication and construction of trail and parks systems, if necessary, and maintenance of existing flora and fauna.
- LU22: Where the opportunity exists, ensure that permanent urban separators are designated in annexation areas; especially where
- land can serve as wildlife habitat, is environmentally sensitive, or contains a major elevation change;
  - the separators will help identify community or municipal identities and boundaries.
- Candidate areas include Point Wells, the MacAleer Creek area, and Bruggers Bog.

### Residential Development

Goal LU III: To have adequate residential land and encourage a variety of quality residential buildings and infrastructure suitable for the needs of Shoreline's present and future residents.

#### Policies

- LU23: Ensure that land is designated to accommodate a variety of types and styles of residences adequate to meet the growth of 1,600-2,400 new housing units and the future needs of Shoreline citizens.

- LU24: The Low Density Residential designation should be applied to areas currently developed with predominantly single-family detached dwellings. Other dwelling types, such as duplexes, single-family attached, and accessory dwellings, will be allowed under certain circumstances. The permitted base density for this designation will not exceed 6 dwellings units per acre and the base height will not exceed 30 feet, unless a neighborhood plan, subarea plan or special district overlay plan/zone has been approved. Appropriate zoning for this area would be R-4 or R-6 Residential.
- LU25: Establish infill standards for single-family houses that promote quality development and reflect the character of the existing neighborhood. These standards should address at a minimum:
- design and siting in accordance with natural environment
  - building height
  - bulk and scale
  - type and number of accessory buildings
  - pervious and impervious surface coverage
  - lot coverage by buildings
  - setbacks for front, back and side yards
  - storm water runoff
  - provision of public sewers and water
  - limits on outside storage of more than one inoperative vehicle
  - landscaping
  - privacy and defensible space
  - attractive street frontage
  - screening of on site storage of recreational vehicles and boat
  - landscaping
  - compatibility with neighborhood character

- LU26: Allow detached or attached accessory dwelling units associated with single-family detached houses with the following considerations:
- one accessory dwelling unit per lot
  - the applicant constructs satisfactory stormwater mitigation as defined in the Municipal Code
  - owner must occupy one of the units
  - cannot be larger than 50% of the living area of the main unit
  - one additional off-street parking space must be provided
- LU27: Allow cottage housing in residential areas of 6 dwelling units per acre and up, if the development goes through design review and adheres to the following characteristics:
- common open space
  - reduced parking areas
  - detached homes
  - common amenities (e.g. garden plots, play areas, storage buildings, orchard)
- LU28: The Medium Density Residential designation should be applied to areas with medium density residential dwelling uses; to areas with single-family detached dwelling units that might redevelop at slightly higher densities; and to areas currently zoned for medium density residential. Single-family homes would be permitted, as would duplexes, triplexes, zero lot line houses, townhouses and cottage housing. Apartments would be allowed under certain conditions. The permitted base density for this designation will not exceed 12 dwelling units per acre and the base height will not exceed 35 feet, unless a neighborhood plan, subarea plan or special district overlay plan/zone has been approved. Appropriate zoning designations for this area would be R-8 or R-12 Residential.
- LU29: Establish design standards for units occurring at 7-12 units per acre as identified in LU25, LU27, and LU32.
- LU30: Encourage the integration of open spaces into residential neighborhoods, including identification and protection of existing stands of trees and vegetation which serve as a greenbelt buffer, and small pocket parks when adopted and maintained to City park standards by private organizations.
- LU31: The High Density Residential designation should be applied to areas near employment and commercial areas; where high levels of transit service are present or likely; and to areas currently zoned high density residential. This designation creates a transition between high intensity uses, including commercial uses, to lower intensity residential uses. All residential housing types would be permitted. The permitted base density for this designation will not exceed 48 dwelling units per acre and the base height will not exceed 35 feet, unless a neighborhood plan, subarea plan or special district overlay plan has been approved. Appropriate zoning designations for this area would be R-12, R-18, R-24 or R-48 Residential.

LU32: Ensure that new multiple family residential development and redevelopment also:

- preserves and/or enhances existing vegetation, including trees;
- includes architectural/design features, such as building modulation, porches, balconies, window treatment, to enhance the existing community character and improve street frontage;
- addresses siting that protects the natural environment (e.g. habitat areas, site terrain, wetlands);
- respects adjacent development by providing setbacks, height reductions and/or buffers for lesser densities;
- provides an attractive street frontage;
- clusters on site to provide the maximum open space, including recreation and/or play areas and other amenities available to residents;
- provides for privacy between units;
- provides for ground orientation and/or usage for all units;
- provides for on-site, screened parking for vehicles which is not located in front yard setback areas;
- screens any onsite storage for recreational vehicles;
- does not allow for outside storage of more than one inoperative vehicle;
- does not exceed six stories in height;
- provides pedestrian connections within project and to adjacent uses such as bike lanes and walking trails; and
- has screened use for loading and unloading.

LU33: Clustering should be allowed in all residential plan designations and zoning districts through the subdivision process or through a planned unit development process to preserve open space and reduce surface water run-off. Specific limitations or incentives for clustering will be established in the zoning code to assure that clustered development will be compatible with the surrounding land uses.

LU34: Clustering should have densities consistent with the underlying zone unless substantial public benefits can be achieved, such as:

- 15% of the units are affordable
- additional stormwater mitigation is provided to meet problems both on and off site
- 20% more open space over required amounts is provided.

Clustered densities should not exceed the underlying zone densities by over 25%.

## Mixed Use Development



**Goal LU IV: To assure that a mix of uses, such as service, office, retail, and residential, are allowed either in low intensity buildings placed side by side or within the same building in designated areas, on arterials, or within close walking distance of transit, serving a neighborhood commercial and residential function.**

**Policies**

**LU35:** The Mixed Use designation should be applied to a number of stable or developing areas and to the potential annexation area at Point Wells. This designation is intended to encourage the development of pedestrian oriented places, with architectural interest, that integrate a wide variety of retail, office and service uses with residential uses. The base height for this designation will be 35 feet unless a neighborhood plan, subarea plan, or special district overlay plan/zone has been approved. Appropriate zoning designations for the area might include Mixed Use Special Overlay District, Pedestrian Oriented Commercial Special Overlay District, Neighborhood Business, Community Business, Office, R-12, R-18 and/or R-24.

**Commercial Development**

**Goal LU V: To ensure that adequate land is designated for community-serving, and regional-serving commercial areas and that that these areas are aesthetically pleasing and have long term economic vitality.**

**Policies**

**LU36:** The Community Business designation should be applied to areas within the Aurora Corridor Overlay District, North City and along Ballinger Road. This designation provides for retail, office and service uses and high density residential uses. Significant pedestrian connection and amenities are anticipated. Some limited industrial uses might be allowed under certain circumstances. The base height for this designation will be 60 feet unless a neighborhood plan, subarea plan or special district overlay plan/zone has been approved. Appropriate zoning designations for this area might include the Aurora Avenue Special Overlay District, Economic Redevelopment Special Overlay District, Pedestrian Oriented Commercial Special Overlay District, Pedestrian Oriented Commercial Special Overlay District, Neighborhood Business, Community Business, or Office.

**LU37:** The Regional Business designation should be applied to an area within the Aurora Corridor Overlay District north of N. 185<sup>th</sup> St. and south of N. 192<sup>nd</sup> St. This designation provides for retail, office, service, high density residential and some industrial uses. Significant pedestrian connection and amenities are anticipated. The base height for this designation will be 65 feet unless a neighborhood plan, subarea plan, or special district overlay plan/zone has been approved. Appropriate zoning designations for this area might include the Aurora Avenue Special Overlay District, Economic Redevelopment Special Overlay District, Pedestrian Oriented Commercial Special Overlay District, Community Business, Office, or Regional Business.

- LU38:** Ensure vital and attractive commercial areas through a public/private investments including:
- pedestrian amenities and street aesthetics, such as trees, benches, etc.
  - adequate transportation services such as bus routes, parking, roads, loading and delivery zones, bicycle and pedestrian routes
  - public spaces such as plazas, pocket parks, intersection treatments and amenities, and public squares
  - appropriate signage excluding billboards
  - transportation demand management programs such as carpooling and bus usage
  - gateway treatments and public art

Public involvement will be required.

- LU39:** Provide incentives such as increased height and bulk up to 30% of allowed floor area ratio if a development provides at least three of the following:
- public plaza with landscaping
  - landscaping which exceeds requirements by 30% or more
  - pocket parks available for the public and maintained by the commercial development
  - substantial public amenities such as art, exceptional street treatment through furniture, fountains, or public informational kiosks
  - architectural features such as clock towers, facade treatments, distinctive building entrances, public meeting rooms and gathering spaces

Public involvement will be required.

### Industrial Development

**Goal LU VI:** To ensure that industrial uses are and will be appropriately sited and mitigated, and provide employment opportunities available to Shoreline residents.

#### Policies

- LU40:** Ensure that existing industrial uses adjacent to I-5 derive access from that highway and mitigate their impacts on the adjacent land uses and City streets.
- LU41:** Ensure that industrial development provides for the following improvements:
- paved streets
  - adequate parking for employees and business users
  - landscaping along or within streets, sidewalks and parking areas to provide an attractive appearance
  - adequate storm water control, including curbs, gutters and stormwater retention facilities