AGENDA

Lynnwood Planning Commission

Thursday, June 10, 2010 — 7:00 pm

City Council Chambers, 19100 – 44th Ave. W., Lynnwood WA

A. CALL TO ORDER – ROLL CALL

B. APPROVAL OF MINUTES:
Meeting of May 27, 2010

C. COUNCIL LIAISON REPORT

D. CITIZEN COMMENTS – on matters **not** on tonight's agenda.

E. PUBLIC HEARINGS

1. 2010 Amendments to the Comprehensive Plan (2010CPL0001).

- Amendments to Transportation Element.
- Policies and Zoning Regulations for Preserving Mobile Home Parks.
- Text and Map Amendments Related to Planning for Light Rail Line.
- Amendments to Parks Element – Annual Update.
- Amendments to Implementation Element – Annual Update.
- Amendments to Introduction – Growth Allocations.
- Land Use Element – Review 60:40 Sub-goal.
- Amendments to Implement Hwy 99 Subarea Plan.
- Land Use Element: Revision to City's Municipal Urban Growth Area Boundary in Meadowdale Gap (area north of Lunds Gulch, west of 52nd Ave. W. and south of 148th St. SW and Norma Beach Road).
- Energy & Sustainability Element – Greenhouse Gas Reduction Targets.

F. WORK SESSIONS

1. Home Occupations Code Amendment (2010CAM0003). Proposed Amendment to LMC 21.42.300 regarding businesses permitted in single family residential zones as a home occupation. Referral from City Council.

G. OTHER BUSINESS
None

H. DIRECTOR'S REPORT

I. COMMISSIONERS' COMMENTS

J. ADJOURNMENT

The public is invited to attend and participate in this public meeting. Parking and meeting rooms are accessible to persons with disabilities. Upon reasonable notice to the City Clerk's office (425) 670-5161, the City will make reasonable effort to accommodate those who need special assistance to attend this meeting.

Lynnwood Planning Commission **Meeting of June 10, 2010**	
Staff Report **Agenda Item: E-1** **2010 Comprehensive Plan Amendments** (2010CPL0001)	☒ Public Hearing ☐ Informal Public Meeting ☐ Work Session ☐ Other Business ☐ Information ☐ Miscellaneous
Dept. of Community Development — Staff Contacts: Kevin Garrett and Keith Maw	

ACTION

No action at this hearing.

A continuation of this public hearing is scheduled for the Planning Commission meeting of June 24, 2010. Following the completion of the hearing, the Commission will be asked to make recommendations on the proposed Comprehensive Plan Amendments to the City Council.

BACKGROUND

The Municipal Code provides for annual consideration of amendments to the City's Comprehensive Plan (the annual "docket"). Review of these amendments is a major component of the Planning Commission's annual work program.

ANALYSIS/COMMENT

The 2010 Docket includes the following proposals:

- Amendments to Transportation Element.
- Policies and Zoning Regulations for Preserving Mobile Home Parks.
- Text and Map Amendments Related to Planning for Light Rail Line.
- Amendments to Parks Element – Annual Update.
- Amendments to Implementation Element – Annual Update.
- Amendments to Introduction – Growth Allocations.
- Land Use Element – Review 60:40 Sub-goal.
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- Land Use Element: Revision to City's Municipal Urban Growth Area Boundary in Meadowdale Gap (area north of Lunds Gulch, west of 52nd Ave. W. and south of 148th St. SW and Norma Beach Road).
- Energy & Sustainability Element – Greenhouse Gas Reduction Targets *(see note below)*.

Attached is a summary of these proposals. These proposals were discussed at Planning Commission work sessions on April 29, May 13 and May 27. Copies of the proposed

changes were distributed with the agenda packets for those meetings; please contact staff if you need an additional copy.

Following the work sessions, staff has revised on item: Greenhouse Gas Targets in the Energy & Sustainability Element. As consideration of approval of the proposed targets has not been scheduled by the City Council, staff has incorporated the proposed targets into the Docket proposal. The proposed targets are shown in the attached summary of the 2010 Docket.

DECISION CRITERIA

The Implementation Element of the Comprehensive Plan states the following criteria for taking action on proposed Plan amendments:

"Each component of a Comprehensive Plan Amendment package shall be reviewed and approved only if it meets all of the following criteria:

- "The proposal is consistent with the provisions of the Growth Management Act and will not result in Plan or regulation conflicts; and
- "The proposal will change the development or use potential of a site or area without creating significant adverse impacts on existing sensitive land uses, businesses, or residents; and
- "The proposed amendment can be accommodated by all applicable public services and facilities, including transportation; and
- "The proposal will help implement the goals and policies of the Lynnwood Comprehensive Plan; and
- "If the proposal could have significant impacts beyond the Lynnwood City Limits, it has been sent to the appropriate Snohomish County officials for review and comment."

RECOMMENDATION

Discuss proposed Amendments.

ATTACHMENTS

2010 Docket – Summary of Proposals

Amendments to Transportation Element

This year Public Works is proposing an update to the Transportation Element of the Comprehensive Plan. Most sections and subsections within the Transportation Element remain unaltered, with the primary changes related to the following:

- Minor references to the recent City's Visioning process were added
- References to Puget Sound Regional Council's (PSRC) regional transportation plan "Destination 2030" was deleted and replaced with references to PSRC's new plan "Transportation 2040".
- Additional text was added further defining the Pedestrian Bicycle Skeleton Systems
- Text was added identifying the importance of the Interurban Regional Trail as a key non-motorized transportation facility
- A Pedestrian Skeleton System map was added
- The Bicycle Skeleton System map was revised based on new bicycle facilities which were constructed in 2009.

Mobile Home Parks

In 2009, the County Council approved new policies, zoning designations and zoning regulations to mobile home parks in the unincorporated area of Snohomish County. In brief, the County's program:

- Adopted new policy language providing for preservation of selected existing mobile home parks and particularly creation of a new zone specifically for mobile home parks (County Ordinance 09-095);
- Adopted zoning regulations (permitted uses, development standards, etc) for the new MHP zone (County Ordinance 09-096); and
- Rezoned all existing mobile home parks that had a residential land use designation to the new mobile home park zone (County Ordinance 09-096).

This proposal would apply similar policies and regulations to mobile home parks in Lynnwood. Attachment A summarizes the County's actions.

Lynnwood last considered actions to preserve mobile home parks – including adoption of a mobile home park zone – in 2007, as part of the 2007 Docket. This proposal was the subject of many hours of City Council and Planning Commission meetings during the spring and summer of 2007, at which a number of alternative approaches were proposed and discussed. The City Attorney at that time (Mike Ruark) advised both the Council and

the Commission that adopting and applying such a zone to existing parks would put the City at risk for a law suit over a "regulatory taking" of the park. The City Council and Planning Commission also discussed mobile home parks in 2006 and 2001. Adopting a new zone for mobile home parks was also discussed, but not adopted, in 2001.

At the conclusion of this process, the City Council approved a voluntary program to encourage preservation of mobile home parks (with future land use designations for residential use). That program provides reduced utility rates, reduced City permit fees and support for reduced property taxes for owners of mobile home parks who enter into a legally-binding agreement with the City that the park will be preserved for a minimum of five years.

Planning for Light Rail in Lynnwood

Staff is recommending adoption of goals, objectives, policies and a map showing the City's preferred locations for light rail stations in Lynnwood. This recommendation is based on analysis of promoting use of transit, walking, cycling and other non-single-occupant-vehicle means of travel in the City Center. That study showed that a light rail station at the Lynnwood Transit Center would be too far from the higher-intensity areas of the City Center to encourage use by new employees in the area.

Amendments to Parks Element – Annual Update.

This proposal would update information in the Parks Element regarding park and recreation properties and the status of park projects. It makes no policy or other substantive changes to this Element. All text that includes level of service calculations is updated to reflect 2009 OFM estimated population, including "Table 1 - Demand and Need within the City". The section "Demand and Needs Assessment, Within Municipal Urban Growth Areas" is revised to reflect current conditions. Project status and completion dates included in "Goals, Objectives and Policies" is updated.

Amendments to Implementation Element – Update.

The Implementation Element includes discussion of the next major update of the Comprehensive Plan. Until recently, the Growth Management Act required completion of the Update by December 1, 2011. However, the just-completed session of the Legislature extended this deadline to December 1, 2014. This amendment makes the schedule in the Implementation Element consistent with the new state law.

Amendments to Introduction – Growth Allocations.

Issue: The Growth Management Act (GMA) requires Comprehensive Plans to include projections of future growth, as part of the basis for goals, policies and plans for the

jurisdiction. The Growth Allocations in the City Comprehensive Plan were updated as part of the 2009 Docket. However, two problems with the amendments have been identified. First, an error was made in the allocation tables. Second, since the 2007 amendment to the City's Municipal Urban Growth Area (MUGA) has not been recognized by other jurisdictions in the County, Lynnwood effectively has two MUGAs, and the data are not clear on which MUGA is used as the geography for the growth allocations. This amendment, consisting of several small text changes and two revised tables, corrects the previous error and clarifies the two different MUGA definitions used.

Background: The Washington State Office of Financial Management (OFM) is responsible for preparing the official GMA forecast of population and employment that is then used by counties in their GMA comprehensive plans. It is the responsibility of the County to allocate the forecast growth to cities and Urban Growth Areas within the county. In Snohomish County, this is done through Snohomish County Tomorrow. Future population and employment growth is allocated to each city, urban growth area (UGA), and the rural area. In the Southwest UGA, allocations are made to each city, the city's Municipal Urban Growth Area, overlap areas claimed by more than one city, and gap areas not claimed by any city.

Until 2007, Lynnwood's MUGA consisted of the city, the unincorporated "core" MUGA and the Larch Way Overlap (shared with Mill Creek.). This is the MUGA recognized by SCT and Snohomish County, as the boundaries of this MUGA have been approved by the County Council as part of the Countywide Planning Policies. In 2007, the Council extended the MUGA to include the Norma Beach Gap (aka Meadowdale Gap) and that portion of the Mill Creek MUGA south of 164th St SW and west of North Rd, including the new Lynnwood High School site. The 2007 revision of Lynnwood's MUGA has not been submitted to SCT for recognition and therefore is not recognized by other jurisdictions in the County.

Proposal: The tables in this amendment reflect the population and employment growth allocations for 2025 contained in the 2007 Buildable Lands Report for both MUGA1 – the Council-approved, extended MUGA – and MUGA2, the SCT-recognized MUGA. Forecasts for the City of Lynnwood were developed jointly by the City and Snohomish County, and approved by the City. Forecasts for the "core" unincorporated Lynnwood MUGA, Norma Beach Gap, Larch Way Overlap, and Mill Creek Unincorporated MUGA were developed by Snohomish County in consultation with SCT. The forecast for the North Rd extension are based on forecasts for the Mill Creek Unincorporated MUGA, pro-rated on the percentage of residential and employment capacity contained in the extension area.

Land Use Element – Review 60:40 Policies.

Issue: Lynnwood's comprehensive plan contains a housing-mix goal of 60% single-family and 40% multi-family outside the city center. It has become increasingly clear that this goal is not attainable -- there is insufficient single-family development capacity remaining in the City or in the unincorporated MUGA to increase the percentage of single family residences to 60%. The intent of this amendment is to initiate a discussion

on how to deal with this inconsistency, through an investigation of the history of the policy, a review of the evolving situation that has made the goal unattainable, and a discussion of other ways of satisfying the underlying intent of the 60/40 sub-goal.

Background: While Lynnwood's Comprehensive Plan has always emphasized the importance of preserving single family residential neighborhoods, the formal Single-Family Housing Retention policy first appears in the 2004 Update to the Land Use Element:

> **Subgoal: Single-Family Housing Retention**
>
> Assure retention of existing single-family housing, and areas of such housing, through protection from conflict with or encroachment of incompatible land uses or activities, and attempt to reach 60% single-family and 40% multi-family units in the area of the City outside of the City Center Study Area.

In many ways, single-family detached housing is associated with stable neighborhoods consisting largely of owner-occupied units. In 2000, single-family detached housing (SFR) comprised about 48% of Lynnwood's housing stock; just under 84% of those units were owner-occupied. This SFR ownership rate is somewhat lower than either the county (89%) or the nation (87%). While the percentage of Lynnwood's housing stock in SFR has been very slowly increasing, from 47.9% in 1990 to 49.20% in 2007, this increase will soon end. The Snohomish County Tomorrow Buildable Lands Study (2007) indicates that the city had a capacity of only 652 additional single-family units, while capacity for MFR (outside the city center) was estimated at 1018 units. The situation in the unincorporated MUGA, likely to be a part of the city in the near future, is little different. In 2000, the most recent year for which data are available, housing in the MUGA was about 50% SFR, down from 56% in 1990. If development in the MUGA proceeds under current plans and zoning – either as a part of the city or Snohomish County – the percentage of SFR will continue to decline to an estimated 40% by 2025.

	City			City less City Center			Unincorporated MUGA (est)		
	1990	2000	2025	1990	2000	2025	1990	2000	2025
Occupied Units	100%	100%	100%	100%	100%	100%	100%	100%	100%
SFR*	53%	53%	43%	53%	53%	53%	61%	53%	42%
MFR	47%	47%	57%	47%	47%	47%	39%	46%	57%

	City			City less City Center			Unincorporated MUGA (est)		
	1990	2000	2025	1990	2000	2025	1990	2000	2025
Occupied Units	11331	13261	18183	11331	13261	15183	7935	10408	21047
SFR*	5958	7054	7817	5958	7054	7817	4835	5525	8874
MFR	5278	6198	10366	5278	6198	7366	3064	4828	12102

* Includes mobile homes.

The charts above clearly demonstrate that the 60% SFR "outside the city center" goal is not obtainable, and that annexation of the MUGA will not further increase the SFR percentage. These two tables show that the metric that the 60/40 ratio applies to – single/multi ratio in the city less the City Center – has been essentially unchanged since 1990 and will remain unchanged through 2025. Over the full urban growth area (including the city), multifamily will account for an estimated 75% of housing unit growth over the 2000-2025, and this percentage will only increase in future decades. This continuing increase in multifamily is the logical result of the state decision to limit urban growth largely to existing urban areas (GMA), local delineation of urban growth areas, and continuing population growth. Any fixed benchmark for percentage of single-family will be increasingly difficult to attain; the long term, irreversible trend is toward a lower percentage of single family.

This situation creates the need to revisit the 60% single-family goal, and to either adjust or revise the goal in keeping with social, economic, and growth management realities.

While the SFR share of housing units is expected to decline, increased owner-occupancy of multifamily units is contributing to higher overall rates of home ownership. Between 1990 and 2000, multifamily ownership rates in the city increased from 10% to 17%; in the unincorporated MUGA, the rate increased even more dramatically, from 5% to 11%. These rates are still lower than the nationwide multifamily ownership rate of 23% (2000). While current economic trends have reduced the number of new condominium units coming to market, it is reasonable to expect that the trend toward increasing ownership rates of multifamily units will increase in the future.

A few words about each of these trends is in order. The national housing market is undergoing a number of changes related to underlying social and economic trends in the population, and these trends are reflected in the Puget Sound area market. Many analysts believe that the single-family home market is overbuilt, and that at a national level this housing "glut" could last for decades. As the baby-boomer generation ages and downsizes from single-family homes in the suburbs to smaller homes located closer to medical and other daily needs, more single-family homes will come into the market. The next generation of potential homeowners, sometimes called the "echo-boom" generation, will have different housing needs. According to the 2009 Edition of Harvard's *The State of the Nation's Housing*, we can expect the most rapid demand growth among Hispanic and Asian households, married couples without children, and single-person households.

The report expresses doubt that the large, single family homes being vacated by aging boomers will be either affordable or appropriate for these new households. Other studies, including Leinberger's *The Option of Urbanism* have shown an increasing preference for smaller homes, located closer to services, employment, and entertainment centers. Leinberger's analysis is one of many demonstrating that the favored form of development over the last 60 years – the drivable suburb – has fostered a decline of community, increased greenhouse gas emissions, and contributed to a myriad of health problems. Over this time frame, consumption of land has grown much faster than population. Washington's Growth Management Act is one of several state policies created to slow the further encroachment of urban sprawl into agricultural and resource lands. Under GMA, increasing the amount of land in the City and MUGA available for single-family detached development is not a possibility. Investments being made now in our transportation infrastructure, including light rail and bus rapid transit, will allow Lynnwood to support quality neighborhoods at higher densities. .

Is the single family residence an endangered species? In some areas of the country, where large lot suburbs have sprung up at great distances from employment centers, there is an epidemic of foreclosure that may well be followed by blight and decay. This sort of result is not likely in inner-ring suburbs like Lynnwood, where we are increasingly well-served by transit and have a strong local economy. We expect that there will be pressures to convert some areas of marginal quality SFRs to multifamily and commercial uses, but that well-maintained SFR neighborhoods will continue to meet the needs of a large segment of our changing population.

Options: Reconsideration of the 60% target should not be seen as a diminishment of the importance of single-family detached housing, but simply as a reflection of the realities of available land. The factors preventing attainment of the 60% single-family goal are clear – market and demographic changes, physical limitations on capacity, policy responses to urban sprawl and climate change. This does not mean that the underlying *objectives* of the policy aren't still valid, but does call into question both the chosen metric (single family units) and the target performance level (60%). If the 60% single-family target level is not realistic or attainable, what target might be more realistic? Or is there a better metric for measuring those attributes of single-family neighborhoods that we want to preserve?

Following discussions of this issue, staff has developed a framework for considering specific amendments to the Comprehensive Plan – see Attachment B.

Amendments to Implement Hwy 99 Subarea Plan.

This item is serving as a "place-holder" for amendments to implement the Highway 99 corridor plan; at this point in that process, no amendments had been identified. This item will be retained on this year's Docket to allow for amendments that are identified as the corridor planning process moves forward.

Energy & Sustainability Element – Greenhouse Gas Reduction Targets.

This proposal satisfies Milestone 2 of the City's Climate Change response framework by establishing greenhouse gas emissions reductions targets. Specifically, the proposal would modify Policy E&S-2.2.1 to read as follows:

> **Policy E&S-2.2.1** The City, under the leadership of the Community Development department and with the full support cooperation of all other city departments, has established the following target greenhouse gas emissions reductions targets. Each target represents reduction from the 2005 levels estimated in the *Greenhouse Gas Emissions Inventory and Baseline Forecast*. Targets apply both to City government operations and the community as a whole.
>
> 2012 – 5% reduction
>
> 2020 – 15% reduction
>
> 2030 – 30% reduction
>
> 2035 – 40% reduction
>
> 2050 – 60% reduction

Land Use Element – Revision to City's Municipal Urban Growth Area Boundary in Meadowdale Gap.

This proposal provides the opportunity to revise the map of the City's Municipal Urban Growth Area (MUGA) in the Land Use Element to document agreement between Lynnwood and Mukilteo on a common MUGA boundary in the Meadowdale Gap area. At present agreement has not been completed.

Attachment A: Snohomish County Mobile Home Park Preservation Program

The following sections summarize the key components of the two ordinances adopted by the County Council in 2009 regarding preservation of certain existing mobile home parks in the unincorporated area of the County (Ordinances 09-095 & 09-096).

Comprehensive Plan Amendments

Land Use Element

Urban Development Patterns Section

Mobile home parks and manufactured home parks provide affordable housing to many county residents. In many cases, they provide the opportunity of home ownership to households which cannot afford to purchase more traditional types of housing. Mobile and manufactured home parks provide a transition between traditional single family detached dwellings and higher density attached housing. Preservation of mobile and manufactured home parks is an important goal of the county. However, preservation requires a careful balance between the rights of park owners and the rights of the tenants living within in them.

Objective LU 2.D Preserve mobile and manufactured home parks within urban growth areas.

Policies

2.D.1 The county shall create development regulations to encourage the preservation of mobile and manufactured home parks. Development regulations shall allow a variety of uses while fulfilling this policy.

2.D.2 Whether to allow the rezoning of mobile and manufactured home parks to other zones should involve a balancing of the property rights of mobile home parks owners and the rights of owners of mobile homes who are renting space in mobile home parks. Some of the factors to consider are:

(1) the cost to the mobile home park owner of maintaining the property as a mobile home park or related use;

(2) the cost to the mobile home park tenant of the closure of a mobile home park;

(3) whether the uses allowed under the proposed rezone are compatible with the existing neighborhood;

(4) whether there are available spaces in other mobile home parks in the vicinity that can accommodate relocating the mobile home park tenants that would be displaced by the closure of the mobile home park; and

(5) whether there is relocation or financial assistance for the parks' tenants.

Housing Element

New Policy 1.B.1

The county shall facilitate affordable home ownership and rental opportunities by promoting an increased supply of lower-cost housing types, such as small lots, townhouses, multiplexes, and mixed-use housing

Revised Policy 1.B.3

The county shall support the development and preservation of mobile and manufactured home parks.

a. Create a comprehensive plan designation and development regulations that will encourage the long-term preservation of mobile and manufactured parks.

b. Investigate the development of site size and buffering standards for mobile and manufactured parks that permit development in all medium and high density residential zones and conditional development in low density residential zones.

Revised Policy 1.C.8

The county shall evaluate the feasibility of implementing a mitigation program for low-income households (<50 percent of median income as defined by the Department of Housing and Urban Development, the agency that defines eligibility for assistance based on that definition) displaced as a result of manufactured housing community closures.

New Policy 1.C.9

The county shall investigate methods of ensuring that redevelopment will not result in a net loss of affordable housing; i.e. every unit of affordable housing lost to redevelopment is replaced with like, affordable housing, suitable for and in a location beneficial to the same demographics as those displaced by redevelopment. To this end, the county shall consider requirements for the inclusion of low-income housing or fees in lieu of providing low-income housing.

Unified Development Code

Established a new Mobile Home Park (MHP) zone.

Zoning Map

Applied the MHP zone to existing mobile home parks with a future land use designation for residential use.

Attachment B - Single Family – Multiple Family Housing Strategy

Principles and Findings

Focus City initiatives on the "heart of the matter"

Support positives – address negatives

Very limited land for more single family detached residences – 60:40 ratio cannot be attained; current ratio is 53:47 (with mobile homes counted as single family residence)

Statistics for housing in MUGA are similar to those in City; annexation will not lead to 60:40 ratio

City and area will continue to grow; most additional population will reside in multifamily, mixed use neighborhoods in a mix of owner occupied and leased housing units

Accommodate growth in City Center and Highway 99 corridor, urban centers in MUGA annexation areas. Growth is being planned in a manner that will protect single family neighborhoods.

Future population will be more diverse than current population

More older residents & empty-nesters

Lynnwood is becoming more culturally diverse; attracting people who may desire housing other than detached single family residence

Smaller household sizes

A diverse population is best served by a variety of housing types.

Goals

Preserve single family neighborhoods

Preserve single family residences

Improve sustainability of single-family neighborhoods

Provide a mix of housing types that matches the needs of all segments of the community

Policies, Programs and Actions

Support housing rehabilitation , using CDBG funding for loans or grants post annexation when Lynnwood meets size requirements.

Support use of Code Enforcement to maintain and improve the quality of our housing stock and neighborhoods

If funding becomes available, support an energy conservation program, including:

Energy audits & community energy awareness

Revolving loan funds for energy retrofits

Property Assessed Clean Energy (PACE) financing for energy retrofits to allow financing to run with the property

Energy efficiency upgrades required upon sale

Establish neighborhood preservation and support program, including outreach to single family, multifamily and mixed use neighborhoods (H-1; LU-7.1 to 7.7)

Plan for development of a variety of types of housing (LU-2.2)

Small lot single family (SF-3 category description, LMC 21.43)

Townhouses/row houses

Condominiums and Apartments

Senior apartments and assisted living

Others (LU-2.5)

Reinforce policies against changing land use at single family properties (LU-2.12, LU-2.3)

Plan for redevelopment in City Center and Highway 99 Corridor (LU-2.4)

Develop and execute an interlocal agreement with Snohomish County, as provided under SCC 30.34A.210, to allow participation in design review of proposed urban center developments within the MUGA.

Consider requiring business licenses and periodic inspections for all rental housing including single-family rentals to insure minimal health and safety standards are maintained.

Lynnwood Planning Commission **Meeting of June 10, 2010**	
Staff Report **Agenda Item: F-1** **Personal Services (Home Occupation) Code Amendments** (2010CAM0003)	☐ Public Hearing ☐ Informal Public Meeting ☒ Work Session ☐ Other Business ☐ Information ☐ Miscellaneous
Dept. of Community Development — Staff Contact: Gloria Rivera, Senior Planner	

ACTION

Discussion only at this work session.

BACKGROUND

At the April 13, 2010 Planning Commission meeting, staff presented the members of the Commission with a series of questions regarding home occupations and sought their direction for possible amendments to the current planning code as it addresses home occupations. The issue being addressed focused on the amendment of the code to allow personal services as a home occupation. Direction from the Commission at that meeting appeared to direct staff to a "listing" of acceptable home occupations. The need was also stressed towards an enforcement tool to be used in the home occupation code.

COMMENT

The present code through sections A through F, and G sets forth the limitations on all home occupations. Staff is recommending the following deletions and additions to Section G. Prohibited Uses:

G. Certain Uses Specifically Prohibited. The following uses are specifically prohibited as home occupations:

1. Automotive repairs or detailing;
2. Small engine and major appliance repair;
3. Boarding or grooming, kenneling, or medical treatment of animals;
4. Contractor's office <u>(with the exception of administrative and office functions). Outdoor storage of equipment, materials, or more than one vehicle related to the business is prohibited.</u>
5. On-site sale of firewood;
6. Sheet metal fabrication;
7. <u>Unlicensed or uncertified</u> health care or other physical or personal services administered directly to the client at this location. <u>Beauty, barber shops and other similar activities are limited to one station</u>.

Enforcement:

Attached to this report are enforcement items selected from the previous codes from surrounding cities as well as their fee schedules. Concerns had been expressed at the Planning Commission meeting regarding enforcement. Several city codes cite enforcement measures, however, the provisions of Mill Creek would seem to provide the best enforcement through code enforcement and the Director determination:

A. A violation of any provision of this chapter shall be a civil infraction. The penalty for the first violation within any 12-month period shall be a fine of $150.00. The penalty for a second violation within such period shall be a fine of $200.00 The penalty for a third or subsequent violation within such time period shall be a fine of $250.00 Each day or portion thereof during which a violation exists or continues shall constitute a separate violation, for which an additional penalty (in the amount of the fine specified in the notice of infraction) shall accrue and be imposed, under the outstanding notice of infraction.

B. A home occupation may be suspended or revoked by the director as an administrative decision pursuant to 14.09.010. The director may base his action on:
   1. Lack if compliance with the conditions of the permit or its approval, or with the provisions of the development code, or upon finding that the operation of the home business creates a nuisance or hazard, or has been abandoned, or was procured by mistake, fraud or deception; or
   2. Accumulation of three civil infractions within any 12-month period.

This work session is to introduce the additional research to amend the home occupation codes to the Planning Commission. Staff will give a brief explanation of the existing codes and the codes of adjacent cities. As part of their processing of the proposal, the Planning Commission will be asked to consider the follow questions:

- Given the types of home occupations allowed within the City and by other cities, do the additions and deletions address the types of uses that should be allowed?

- The Code already lists a number of restrictions for home occupations, if the uses are expanded, do more restrictions need to be codified?

- Specifically, as a code consideration, do other restrictions need to be applied that would not be addressed by the other code restrictions, such as beauty parlors/barbershops - one chair)

- Should consideration be given that rental single-family and multi-family residences require the signature of the property owner? See City of Mill Creek below.

"17.23.030 Application Process
A. Applications. The application for a home occupation permit shall be submitted on forms obtained from the director of the department of community development, and shall be acknowledged by the property owner if other than the applicant."

Future Commission meetings will include opportunities for more detailed discussion (including staff from other departments, as appropriate). Following these work sessions, a public hearing will be held to provide the opportunity for the public to comment on the proposals. Following the hearing, the Commission will be asked to make a recommendation to the City Council.

RECOMMENDATION

Discuss questions and proposals.

ATTACHMENTS

A. Sample Home Occupation Code Restrictions
B. City Fees and Processes
C. Specified Uses

Listed and Prohibited Uses in Other Cities

Cities that don't list out any permitted uses so as to be inclusive are: Seattle, Brier, Edmonds, Everett, Kirkland, Lake Forest Park, Bellevue, Mukilteo (rather they list prohibited uses

Allowed uses in other cities

1. After hours paperwork and similar activities performed by residents on evenings and weekends, with primary offices elsewhere
2. Arts and crafts (hand made only)
3. Artists and sculptors
4. Authors and writers
5. Barber shops
6. Beauty shops
7. Bookkeepers
8. Cabinet, carpentry work
9. Catering
10. Ceramic shops
11. Composer
12. Computer consultants and small scale repair
13. Contractors (limited to back office and administrative duties)
14. Day care
15. Dog or cat grooming
16. Dressmaker, seamstress, tailor
17. Home cooking and preserving
18. Insurance agent
19. Janitorial service
20. Landscaping
21. Lawyers
22. Massage therapy
23. Medical services provided on premises
24. Music and art instruction (two students at a time)
25. Office facility of a salesman, sales representative, or manufacturer's representative
26. Office facility of a minister, rabbi, or priest
27. Photographer (no production studio)
28. Physician
29. Preschool
30. Professional services (engineer, planner, architect)
31. Psychologist
32. Radio, TV, musical instrument and small appliance repair
33. Real estate licensee
34. Repair shop for household items
35. Services or activities that are not performed at the residence of the applicant, such as newspaper delivery, babysitting, lawn care and gardening, parties for the sale of items)

36. Tax accountant
37. Teacher
38. Telephone answering or soliciting
39. Transcription services
40. Tutoring (two students at a time)
41. Typing/word processing services
42. Sales shall be limited to mail order sales and telephone sales with off-site delivery

Prohibited uses in other city codes

1. Offices of any doctor of medicine, dentist, orthodontist, chiropractor, other health care professional licensed under the State of Washington (excluding licensed massage therapists)
2. Clinics
3. Lawyers
4. Barber/beauty shops
5. Real estate offices
6. Offices with client visits
7. Any structure used for the retail sale of goods, except as adjunct to a permitted use.
8. Kennels
9. Stables
10. Cabinet and woodworking shops
11. Martial arts or dance/aerobics studio, exercise studios
12. Manufacturing processes for handling potentially substances
13. Medical or professional clinics
14. Restaurants
15. Vehicle, boat, body repair
16. Vehicle motor repair and service
17. Parking and storage of heavy equipment
18. Storage of building materials for use on other properties
19. The outside storage of equipment, materials, or more than one vehicle related to the business
20. Vehicles larger than 10,000 pounds gross weight operated out of the premises or parked on the property or on adjacent streets.
21. Taxicab, van shuttle, limousine or other transportation services except for office activities; provided all other requirements of this subsection concerning home occupations are met
22. Spray painters
23. Microbrewers
24. Repair of large appliances and any other repair that would create noise, fumes, etc.
25. Veterinary clinic or hospital
26. Machine and sheet metal shops
27. Uses that may include hazardous chemicals or other items that may be potentially hazardous to the surrounding area.

F-1-5

Sample Home Occupation Code Restrictions:

Bellevue

20.30N.120 Decision Criteria
A. The Director of Planning and Community development may approve or modify and approve a Home Occupation Permit if the following decision criteria are met:

20.20N.145 Conditions
The Director of Planning and Community Development may impose conditions to mitigate any potential adverse impacts on the surrounding uses.

20.30N.150 Time Limitation
The Director of Planning and Community Development may establish a time limitation for the effectiveness of a Home Occupation Permit in order to provide for periodic review of business activity in a dwelling.

20.30N.160 Revocation of Home Occupation Permit
Upon determination that there has been a violation of any decision criteria or condition of approval, the Director of Planning and Community Development may give written notice to the permit holder describing the alleged violation. Within 14 days of the mailing of the notice of violation, the permit holder shall show cause why the permit should not be revoked. At the end of the 14 day period, the Director shall sustain or revoke the permit. When a Home Occupation is revoked, the Director shall notify the permit holder by certified mail of the revocation and the findings upon which revocation is based. Appeals of decisions to revoke a Home Occupation Permit will be processed using the Process II appeal procedures.

20.20N.165 Assurance device
In appropriate circumstances, the Director of Planning and Community Development may require a reasonable performance or maintenance assurance device to assure compliance with the provisions of the Land Use Code and the Home Occupation as approved.

Cost is $800 dollars plus fire inspection fee. Approval is published in paper and mailed to adjacent homeowners.

City of Mountlake Terrace

19.120.230B.9. A business license shall be purchased from the City' Clerk's office and will be maintained throughout the purchase of an annual renewal. If the license is not renewed within 30 days of expiration, the home occupation approval shall become null and void and a new application shall be required to reestablish the use.

Approval Process and Inspections

1. No later than 10 days prior to rendering a decision for a home occupation that is subject to administrative review, a notice of intent to approve the administrative home occupation shall be posted on the subject site. Comments received will be considered in the preparation of a decision to approve or deny.
2. In granting an approval for a home occupation, the administrator or decision body may attach additional conditions to ensure the home occupation will not be detrimental to the character of the residential neighborhood.
3. Any home occupation authorized under the provisions of this code shall be open to inspection (within 24 hours notice) and review at all reasonable times by an authorized City official for purposes of verifying compliance with the approval criteria and other code provisions.

Conditional Use Process

I. Denial of Application. An application for a home occupation shall be denied if the administrator or decision body finds that the application fails to comply with the provisions of this section. A denial shall include a statement of the specific reasons for denial of a home occupation and shall cite the specific provisions and sections of this title on which the denial is based. Such decision is final unless appealed.

J. Rescission of Permit. The home occupation must continue to meet the criteria and conditions of this section, including any additional conditions specified at the time of approval. A home occupation may be rescinded if the appropriate administrator or decision body finds that the home occupation is not being conducted in compliance with provisions of this section. Such decision is final unless appealed.

K. Annual Review. An annual review if a home occupation may be done concurrently with the renewal of the business license. This review by the City shall include an assessment to ensure the home occupation is in compliance with the original approval criteria. If the review indicates that the home occupation is not being conducted according to the approval criteria, or the use has become detrimental to the residential neighborhood, the renewal of the business license shall be denied, or shall have conditional approval after the situation has been addressed and corrected.

Edmonds

20.20.010 Home Occupations

A home occupation may be conducted as a permitted use in any residential zone of the city subject to the following regulations

A. Home occupation shall be permitted use if it:

1-7 Lists limitations

Any permit granted to such an occupational use shall be immediately voidable upon proof of any visit to the site in excess of the standards provided in paragraphs A(4)

(deliveries) and A(6) (people working on site) of this section or any visits by a customer, client, or other person purchasing goods or services from the home occupation. Proof of one such occurrence shall be sufficient to void the permitted use provided under this section and thereby requiring the home occupation to meet the permitting provisions hereinafter contained in this chapter. An example of an outright permitted home occupation is a writer or an artist who develops a book or art work and does not show the work from the home.

B. A home occupation which does not meet one or more of the requirements of subsection (A) of this section may be approved as a conditional use permit subject to limitations. Voidable on proof similar to and subject to voidance per city codes.

20.20.30 Permit

All permits for home occupations are personal to the applicant and shall not be transferred or otherwise assigned to any other person. The permit will automatically expire when the applicant named on the permit application moves from the site. A home occupation shall also automatically expire is the permittee fails to maintain a valid business license or the business license is suspended or revoked. The home occupation shall not be transferred to any other site other than that described on the application form.

Kirkland

115.65 Home Occupations

(5) A home occupation which does not meet one or more of the requirements of subsection (4-restrictions) shall be reviewed under Process I, provide that the notice of application shall be distributed pursuant to 150.22.

Enforcement. Upon determination that there has been a violation of any provision of this section, the City may pursue code enforcement in accordance with the provisions of the chapter relating to code enforcement (170)

1. General – Under the provisions of this section, the City may void any variance, permit, decision or discretionary approval granted or issued under this code.

2. Review Process – The City, as the applicant, shall use the same process to determine if a variance, permit, decision, or discretionary approval should be voided as it used to grant the variance, permit, decision, or discretionary approval.

3. Decisional Criteria – The City may void a variance, permit, decision, or discretionary approval only if it finds that:

    a. There have been repeated violations of any aspect, including conditions or restrictions, of the variance, permit, decision, or discretionary approval; and

    b. The detriment caused by the violations clearly outweighs any public benefit of the variance, permit, decision, or discretionary approval.

4. Effect – If the City voids a variance, permit, decision, or discretionary approval, the City will apply and enforce the provisions of this code on the subject property, as if the variance, permit, decision, or discretionary approval had never been granted.

City of Mill Creek

17.23.020 Permit required.
A. Applicability. No home occupation shall be operated within the city except in accordance with the provisions of this chapter, A home occupation is required for all home occupations except those exempt pursuant to this chapter.
B. Transferability. A home occupation permit is not transferable to another person, entity, or business and is valid only for the property address set forth on the permit.

17.23.030 Application Process
A. Applications. The application for a home occupation permit shall be submitted on forms obtained from the director of the department of community development, and shall be acknowledged by the property owner if other than the applicant.
C. Approval process. Group A home occupations shall be processed in accordance with the administrative procedures of 14.09.010.

17.23.80 Review, Enforcement, and Penalties

B. A violation of any provision of this chapter shall be a civil infraction. The penalty for the first violation within any 12-month period shall be a fine of $150.00. The penalty for a second violation within such period shall be a fine of $200.00 The penalty for a third or subsequent violation within such time period shall be a fine of $250.00 Each day or portion thereof during which a violation exists or continues shall constitute a separate violation, for which an additional penalty (in the amount of the fine specified in the notice of infraction) shall accrue and be imposed, under the outstanding notice of infraction.

C. A home occupation may be suspended or revoked by the director as an administrative decision pursuant to 14.09.010. The director may base his action on:
   1. Lack if compliance with the conditions of the permit or its approval, or with the provisions of the development code, or upon finding that the operation of the home business creates a nuisance or hazard, or has been abandoned, or was procured by mistake, fraud or deception; or
   2. Accumulation of three civil infractions within any 12-month period.

Home Occupation City fees and processes

Mukilteo – home occupation is part of business license

Shoreline - $145 with home occupation forms

Woodinville – revocation language is part of application $115

Bothell - application is part of bus license $15

Kenmore - home occupation application is separate $50

Mountlake Terrace – separate application $100+ additional fee w/ Hearing Examiner

Brier – Initial approval by City Council with a hearing. Approvals are good for one year, with a renewal thereafter. Yearly inspection can take place for compliance with the code requirements. Any change of ownership of the house requires application for a new license. Enforcement by inspection. Can be appealed to Council by property owner.

Edmonds – Has an administrative home occupation (commercial enterprises employing only residents, operated entirely within the structure, with mo deliveries or traffic or neighborhood activities) and a CUP for other. Cost is an initial $100 plus $50 for renewal of business license. $1,100+ for CUP

Everett – Type 1 Administrative. $100??

Kirkland – NOA posted, mailed to adjacent property owners, web. Party of record can appeal.

Lake Forest Park – business license $20

Mill Creek – Group A No notice. Appeals to City Council . $50