

# AGENDA

## Lynnwood Planning Commission

Thursday, July 22, 2010 — 7:00 pm

City Council Chambers, 19100 – 44<sup>th</sup> Ave. W., Lynnwood WA

---

**A. CALL TO ORDER – ROLL CALL**

**B. APPROVAL OF MINUTES:**  
Meeting of June 24, 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).**

- Policies and Zoning Regulations for Preserving Mobile Home Parks.

**F. OTHER BUSINESS**

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

- Land Use Element – Review 60:40 Sub-goal.

**G. WORK SESSIONS**

- 1. Home Occupations Code Amendment (2010CAM0003).** Proposed Amendment to LMC 21.42.300 and 21.43.300 regarding businesses permitted in residential zones as a home occupation. Referral from City Council.

**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 July 22, 2010**

**Staff Report**

**Agenda Item: E-1**  
**2010 Comprehensive Plan Amendments -**  
Policies and Zoning Regulations for Preserving  
Mobile Home Parks (2010CPL0001)

- Public Hearing
- Informal Public Meeting
- Work Session
- Other Business
- Information
- Miscellaneous

Dept. of Community Development — Staff Contacts: Kevin Garrett and Keith Maw

**ACTION**

Hold public hearing and then make recommendation on the proposed Comprehensive Plan Amendment and new zone for mobile home parks 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. On June 24, 2010, the Commission completed recommendations on all but two proposals on this year's Docket – this item and the review of the 60:40 single family housing subgoal. Taking action on that item is scheduled later on this Agenda.

**ANALYSIS/COMMENT**

This year's Docket includes consideration of adopting new polices and a new zone regarding the existing mobile home parks in Lynnwood. This proposal is based on the action taken by the County Council in 2009 approving new policies, zoning designations and zoning regulations for mobile home parks in the unincorporated area of Snohomish County. In brief, the County's action:

- 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. Copies of the County

ordinances were distributed at work sessions in May; if you need a new copy, please contact staff.

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. That proposal was the subject of many hours of City Council and Planning Commission meetings during the spring and summer of 2007, during 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.

At the conclusion of 2007 process, the City Council approved a voluntary program to encourage preservation of certain mobile home parks (those with a future land use designations for residential use). That program allows 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. Attachment B summarizes the program adopted by the City Council.

These proposals were discussed at Planning Commission work sessions on April 29 and May 27, and a public hearing was held on June 10 and 24. At the public hearing (both nights), comments were made both in support of adopting and mapping a Mobile Home Park (MHP) zone and in opposition to that proposal.

At the close of the June 24 hearing, the Planning Commission asked staff to schedule and provide notice of another hearing on this matter for tonight’s meeting. As with the first hearing, notices of this new hearing were sent to both mobile home park owners and residents of the parks.

## **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**

Staff recommends denying this proposal on the basis of:

- 1) One goal of the Growth Management Act states, “Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.”
- 2) Federal and state constitutional provisions regarding private property rights and “takings” also prohibit taking private property for a public use, and
- 3) Recent court cases on similar proposals raise significant questions about the legal risk of approving the proposal.

## **ATTACHMENTS**

- A. Outline of County Mobile Home Park Policies and Actions
- B. Summary of City’s Mobile Home Park Preservation Program (adopted 2007)

# 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.

# Current City Program for Preserving Mobile Home Parks

The following land use “overlay” designation applies to all mobile home parks with a designation for residential use.

## ***Mobile and/or Manufactured Home Park Residential (MH-1)***

**Purpose:** This Plan category is to provide a land use plan designation for existing and future Mobile and/or Manufactured Home Parks (MHP) in the City of Lynnwood. The difference in terminology used to describe these housing units relates to whether the units were built to the HUD Code adopted on June 15, 1976. Manufactured home units all meet the HUD Code. Mobile homes do not fully meet the Code. For a complete definition of the terms, read the Background Report to the Comprehensive Plan.

**Application:** This Plan designation shall be utilized as an overlay designation. Initial application/mapping will include the following existing parks:

1. Bearden’s Park
2. Candlewood Estates
3. Center Mobile Home Park
4. J&L Mobile Home Park
5. Kingsbury East
6. Kingsbury West
7. Kingsbury West Annex
8. Lynnwood
9. Meadowdale
10. Royalwood
11. Squire
12. Spacette Mobile Home Community

If a property owner wishes to establish a new park in the future, the owner may apply to map the MH-1 land use designation to a property in the annual amendment process. In addition to other criteria, a location for the development of a new park must demonstrate good access to arterial and collector streets and reasonable proximity to services including transit.

**Principal Use:** Single-family mobile and/or manufactured homes in a density range of four to fourteen dwelling units per acre.

**Subordinate Uses:** Institutional, educational, or cultural, as long as such use supports the residential use and that this use would not significantly impact nearby residences in a negative way.

**Site Design:** Minimum site size – one (1) acre. On each lot, four (4) to fourteen (14) mobile/manufactured homes per net acre may be located. Mobile and/or manufactured home parks may be reconfigured and upgraded in accordance with LMC 21.70.

**Building Design:** Residences within the mobile and/or manufactured home park shall be as they currently exist and/or meet current manufactured home requirements. Nothing shall prevent park ownership and/or management from upgrading the park to residences meeting current manufactured home standards. Units shall not be connected by any common wall(s).

**Implementation Process:** Preservation of mobile home parks will be accomplished through Development Agreements where the owner voluntarily agrees to maintain the park for a minimum of five years in exchange for financial incentives as described below. The Development Agreements should renew automatically per the terms of the Agreement, unless the owner informs the City and residents of the park of termination of the Agreement at least one year in advance of end of the term.

**Incentives:** The City has a valid interest in insuring the preservation and creation of housing opportunities for households of limited means. Existing mobile home parks, and ones that may be developed in the future, fulfill this role. Market forces, rising costs and rising property values are creating an environment that makes it difficult for owners to economically justify maintaining their properties as mobile home parks. The City Council should consider adoption of the following incentives to keep mobile home parks in operation:

- Water - 50% of current rate for 5-year development agreement term, 75% for 7-year or longer term
- Sewer - 50% of current rate for 5-year development agreement term, 75% for 7-year or longer term
- Storm - 50% of current rate for 5-year development agreement term, 75% for 7-year or longer term
- Waiver of application and other fees for processing a development agreement pursuant to this program;
- Waiver of building permit and other processing and inspection fees for maintaining or improving a mobile home park participating in this program;
- Such other incentives as the City Council may from time to time approve by ordinance;
- Potential property tax reductions based upon expectation of lower assessed value from income-based approach that considers the effect of the development agreement on property value. Longer terms could be expected to result in greater reductions in assessed value. Any changes in assessed value would come from independent action by the County Assessor, and be subject to all applicable State and County laws concerning commercial property appraisal.

***Lynnwood Planning Commission***  
**Meeting of July 22, 2010**

**Staff Report**

**Agenda Item: F.1**  
**2010 Comprehensive Plan Amendments**  
**Land Use Element – Review 60:40 Goal**  
(2010CPL0001)

- Public Hearing
- Informal Public Meeting
- Work Session
- Other Business
- Information
- Miscellaneous

Dept. of Community Development — Staff Contacts: Kevin Garrett and Keith Maw

**ACTION**

Make recommendation to City Council regarding proposal to replace the 60:40 unit goal with an 80:20 land area goal.

**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. Following a Public Hearing on June 10 and June 24, 2010 this amendment was held back for further discussion.

**ANALYSIS/COMMENT**

Commission requested that staff prepare additional information regarding two aspects of this issue:

- Incentives for conversion of existing multi-family zones to single family
- Adequacy of the proposed 80:20 land area alternative, when coupled with other existing preservation policies, to protect single-family neighborhoods, as compared to the current 60:40 unit count single-family/multi-family ratio goal

**Incentives for conversion of existing multi-family to single family**

Members of the Planning Commission have posed the question if the supply of single-family housing could be increased through a program of “incentives” to encourage conversion of (older, poor condition) existing multifamily development to single-family. The feasibility of such conversions depends upon a number of factors:

- Is there a potential supply of multifamily lots (developed or undeveloped) that could be converted?

- What is the value of these parcels compared to the market rate for single family lots?
- What mechanisms exist to legally provide incentives or subsidies to bridge the difference in lot price?

In order to get an answer to the first two questions, staff undertook an analysis of potential “downzone” lots. Three conditions were placed on these lots to limit them to the most likely candidates for conversion and consistent with the brief time available for analysis:

- Located such that a buffer between the new (converted) single-family areas and higher-density, typically commercial or industrial, uses can be maintained.
- In a single ownership, i.e., not condominiums (property acquisition to difficult)
- Condition code (at least for first round of this exercise) below average for age (FAIR); these properties would be expected to have the lowest improvement value and greatest potential for conversion.

Twenty-eight of 462 multifamily parcels met the “FAIR” condition test. (Expanding the candidate list to include average condition or to nominate by improvement ratios was beyond the scope of this limited analysis) Of these, eighteen were in positions that allowed maintenance of multifamily buffers between the parcels and commercial/industrial zones. Land costs for these qualifying lots was assumed to be the total assessed value, including improvements, as these improvements are currently producing income. The average land cost for these 18 parcels was \$41/square foot. Next the potential lot yield for each parcel was computed by dividing the parcel size by 8400. The average lot cost was \$434,594 (RS-8). These lots were then compared to existing single-family lots with similar locations (within a 300 foot radius of the candidate lots). The average land value for these 149 SFR parcels was \$21/square foot, with an average lot value of \$212,496. The difference between prevailing SFR lot value and candidates for conversion is \$222,098, or about 105%. Actual costs would be somewhat higher, due to demolition and utility relocation. (Note: these values are based on 2009 assessed valuations; current market values may be substantially lower.)

This value difference provides a very steep barrier to down-zoning and conversion. Down-zoning is always controversial. Most down-zoning has been attempted fairly limited circumstances:

- depressed areas as part of an urban renewal effort
- rural areas in an attempt to prevent sprawl
- urban neighborhood zoned at densities that are greater than current development

Any non-voluntary down-zoning would create significant loss in value to affected properties. Rental properties would be allowed to continue, but as non-conforming, pre-existing uses. It is highly likely that such a down-zoning would be challenged as a regulatory taking.

Voluntary down-zoning would be unlikely without very large “incentives”. Typical regulatory incentives offered by local government – reduced fees, expedited review,

greater flexibility in lot size or configuration, etc. – would have insufficient value to be effective. Very few financial incentives are available to Washington local governments. Cities do not have the legal power to make significant impact on property tax rates or to create tax moratoria, tools employed for redevelopment in other states. Some exceptions to this general rule are possible if the subject property is blighted and falls into a community renewal project under RCW 35.81. Under this scenario, the local government would purchase the property, clear the buildings and prepare the site, and resell the property. The city’s ability to purchase the property would be limited by the need to demonstrate a valid public purpose. However, as the resale value of the down-zoned property would almost certainly be less than the purchase price, this sort of transaction would likely violate Article VIII, 7 of the state constitution (aka “the gift clause.”).

Another regulatory option would be to increase the density allowed in the so-called “down-zoned” area so that land values were more in line with the existing multi-family uses. Provided that sufficient parcel size could be found or aggregated, existing low-end, low-density multifamily islands might be converted to something like cottage housing, with densities similar to RML or SF-4. Were the City to allow rezoning of existing multifamily to these densities, the per-unit lot cost (using the example above) could decrease to around \$200,000. The resultant single-family units would not be inexpensive, but could be more affordable than existing single-family stock. The kind of allowable unit and site design for these developments would need to differentiate them from Snohomish County Low-Density Multiple Family (aka LDMR or “air condos”) that have been rejected by the Council as inappropriate for traditional SFR neighborhoods.

#### **Discussion of proposed revisions to the 60:40 subgoal.**

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. The policy, stated in a sub-goal, reads:

**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.**

Previous reports to the Commission during the current docket cycle have shown that

- Single family units comprise approximately 50% of the City’s housing stock
- Single family neighborhoods comprise about 83% of residentially-zoned land in the City.
- There is limited capacity for new single-family units, and most of that capacity will result from short subdivisions of existing large-lot single family
- Growth of the City through annexation will not increase the percentage of single-family units

- Single family detached units as a percentage of total housing units is at a high-water mark, and will gradually decline in the future.

In order for the City to accommodate its share of future growth in the region, most future housing unit growth will consist of multifamily units. These new multifamily units will likely have a greater diversity in terms of size, value, and tenure (ownership) than current multifamily offerings. These trends are already evident in the unincorporated urban growth area.

The core of the City's growth policy, while perhaps not well articulated in the Comprehensive Plan, has been to accommodate future growth through redevelopment of commercial areas into mixed-use communities. The first of these major redevelopment areas is the City Center. Appropriately, the City Center was "carved out" from the area covered under the 60:40 subgoal. The next area to be proposed for this pattern of redevelopment is the Highway 99 corridor. In the unincorporated MUGA, Snohomish County has designated two mixed-use urban centers: Highway 99 at 148<sup>th</sup> and 164<sup>th</sup> & I-5. These centers and corridors will provide capacity for the vast majority of forecast growth.

In addition to the designated urban centers, Snohomish County has allowed significant increases in the density of new development in existing single-family neighborhoods, primarily through the use of LDMR or "air condo" developments. The City has opposed this policy, and our future land use plan for the area would eliminate the use of this zone where not already vested. Reductions in housing capacity resulting from these changes must be made up by increased density in new mixed-use communities.

The 60:40 policy is one of several goals, subgoals, and policies with the shared intent of preserving single-family neighborhoods. Preservation of these neighborhoods is seen as essential to maintaining the fabric and identity of the community. As noted above, preserving single family neighborhoods need not be in conflict with increasing the stock of multifamily housing. The 60:40 policy, however, is directly aimed at maintaining the percentage of single family units, not neighborhoods. In order to be consistent with other parts of the plan, over time the ratio would either have to continually be reduced or additional "carve-outs" would need to be added defining areas where the policy does not apply. Staff has proposed an alternative that focuses instead on preserving the neighborhood by establishing a goal of 80% of our residential land remaining in single-family use. Unlike the 60:40 split, the 80:20 split is consistent with current and planned future land use in the City and MUGA.

Like the current 60:40 goal, the 80:20 goal would not be a stand-alone tool for preserving single family neighborhoods. Significant supporting policies include:

- **Policy LU-2.12** No single family residential property (SF) shall be rezoned to any form of multi-family (MF) use; except, in rare instances, and then only upon a showing of clear and convincing evidence of need

- **Policy LU-2.8(f)** Multi-family development of the (multi-family) site will not disrupt or negatively impact adjacent single-family property.
- **Policy LU-2.9(d)** (SF-2 PUD) Site provides a transition between lower density single family development and other uses.

These strong protection and preservation policies are complemented by a limited degree of flexibility in meeting the daily needs of neighborhood residents:

- **Policy LU-6.1(b)** Facilities that serve a single neighborhood should be located in such neighborhoods.
- **Policy LU-7.2** Allow a range of complementary residential and limited neighborhood commercial land uses in existing and developing neighborhoods. Complementary uses include places of worship, child day care, adult day care, and similar institutional uses that provide a residential service and do not cause a substantial impact to adjoining residences. Limited commercial land uses may be allowed where residences are more than convenient walking distance (about one-half mile) from other shopping areas, and may include small retail stores providing convenience goods for residents of the immediate area.

The proposed 80:20 package also includes a new policy related to neighborhood sustainability planning.

- **Proposed Policy LU-7.8** The city will consider the unique requirements for enhancing the sustainability of existing single-family neighborhoods during the development of climate change and sustainability plans.

This new sustainability policy will complement other existing neighborhood and housing policies. As our single family housing stock ages and homeowners begin to adapt to increased costs of fossil fuels and other energy, significant public and private investments will need to be made both in conventional maintenance and deep energy efficiency retrofits. Existing complementary policies include:

- **Policy LU-7.1** Work with affected persons and groups to develop plans and strategies that will improve and stabilize neighborhoods.
- **Policy LU-7.4** Provide for a rental housing inspection program to promote the long-term viability of neighborhoods.
- **Policy H-1.3** Provide opportunities that assist middle-to-low income households in the maintenance and rehabilitation of their homes.
- **Policy H-1.5** Establish a street, trails, and sidewalk improvement program that promotes an effective and safe neighborhood circulation and transportation system.

Over the next three years, staff will continue to build upon our existing climate change and sustainability framework. The first product of this effort will be a Climate Action Plan which will include new goals, policies, and program proposals focused on achieving large gains in residential energy efficiency and reducing automobile dependency. By

2014, our goal is to reshape the Comprehensive Plan around sustainability principles. Policies designed to address and improve the sustainability of single-family neighborhoods will be a cornerstone of that effort.

## **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**

Staff recommends that the Planning Commission recommend adoption of the proposed 80:20 land-area goal for single family housing and associated policies to replace the 60:40 housing-unit goal that is currently in the Comprehensive Plan.

**Lynnwood Planning Commission  
Meeting of July 22, 2010**

**Staff Report**

**Agenda Item: G.1  
Personal Services (Home Occupation)  
Code Amendment (2010CAM0003)**

- Public Hearing
- Informal Public Meeting
- Work Session
- Other Business
- Information
- Miscellaneous

Dept. of Community Development — Staff Contact: Gloria Rivera, Senior Planner

**ACTION**

Discussion with possible action to set public hearing on home occupation amendments.

**BACKGROUND**

At the April and June Planning Commission meeting, staff presented 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. Staff presented a “draft” code amendment along with alternatives which the Commission might choose to consider. Direction from the Commission at that meeting appeared to direct staff to incorporate the amendments with a draft ordinance to be presented at the July Commission meeting.

In the interim, the planning staff reviewed the amendments with a few minor revisions including specifications regarding access, clarification regarding traffic, evaluation criteria for the Community Development Director, and establishment of exemptions for garage, yard, bake sales, and similar activities not to exceed five per year. Submittal of a building footprint and site plan were added for ease in evaluation of home occupations. Several other minor deletion and additions were proposed.

**COMMENT**

The application of additional conditions and enforcement per amendments was discussed by the planning staff. Once the business license and home occupation checklist are completed, they are routed to the city departments for review. Language was added which allows the Community Development Director to apply additional conditions.

Enforcement was an area that could create discrepancies in the city land use review process. At the present time, the application for a home occupation occurs simultaneously with the application for a business license and is included by reference in the business license approval. As proposed, initial enforcement would occur through code enforcement per LMC. 1.40.020. The Community Development Director would still retain the ability to revoke the home occupation. Appeals would be to the Hearings Examiner.

As proposed the code language amendments would read as follows:

A home occupation may be permitted by issuance of a business license, pursuant to LMC Title 5, provided the business complies with this and other applicable sections of the Lynnwood Municipal Code.

A. Area Used. A home occupation may only be conducted in the principal building and not in an accessory building. The area devoted to the home occupation may comprise no more than 25 percent of the area of the principal building. Any extension of the home occupation to the outdoors, including, but not limited to, paving or yards for parking, outdoor storage or activity, indoor storage or activity visible from outdoors (e.g. in an open garage) is prohibited.

B. Access. Access to the space devoted to the home occupation shall be from within the dwelling, not internally "closed off" or separated from the living areas of the home, and not from a separate outside entrance.

C. Employment. No one other than the members of the resident household may perform labor or personal services on the premises, ~~or park at or near the dwelling.~~

D. Stock in Trade. The processing, storing, and occasional sale of handicrafts made on the premises and other small products is allowed, subject to compliance with other conditions of this title. The display or storage of goods outside the premises or in a window is prohibited.

E. Equipment, Use, and Activities. No equipment may be used and no activities may be conducted which would result in noise, vibration, smoke, dust, odors, heat, glare, or other conditions exceeding in duration or intensity those normally produced by a residential use. Normal residential uses shall be construed as including the above impacts only on an occasional weekend or evening basis (e.g. in connection with a hobby or home/yard maintenance), and not on a daily basis.

F. Traffic. A home occupation shall not generate traffic in excess of normal residential traffic. ~~Normal residential traffic for the purposes of regulating home occupation traffic shall be defined as 10 trips per day and one trip per hour.~~ Delivery services such as the Post Office, UPS, FedEx and similar, which make normal deliveries to residential neighborhoods, shall not be included in the assessment. Trips, whether personal or for business, by residents of the dwelling, shall also not be included. Home occupations that generate traffic or parking, is are limited to the hours of 7:00 a.m. to 9:00 p.m.

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, grooming, kenneling, or medical treatment of animals;
4. Contractors' shops (with the exception of administrative and office functions). Outdoor storage of equipment, materials, or more than one vehicle related to the business is prohibited;
5. On-site sale of firewood;
6. Sheet metal fabrication;

7. Unlicensed or uncertified health care or other physical or personal services administered directly to the client at this location. Beauty/barber shops and other similar activities having more than one station.
  8. Any other use as determined by the Community Development Director with a demonstrated tendency significant potential to violate one or more of the conditions of this section.
- H. Signs. Any home occupation sign must meet the residential sign regulations in LMC 21.16.290.
- I. Exemptions. The following shall not be regulated under this ordinance: garage sales, yard sales, bake sales, and similar as long as they do not occur more than five times per year per home.
- J. Process.
1. Applications. The application for a home occupation permit shall be submitted on a form concurrently with a business license application, and shall be acknowledged by the property owner if other than the applicant. Applications shall include a copy of a site plan showing parking and a footprint for the premises showing access and the square footage of the premises and the square footage allocated to the occupation.
  2. Conditions. The Director of the Community Development Department may impose additional conditions to mitigate any potential adverse impacts on the surrounding uses.
  3. Business License. A business license shall be obtained from the City' Clerk's office and will be maintained. If the license is not maintained, the home occupation approval shall become null and void and a new application shall be required to reestablish the use.
  5. Review, Enforcement, and Penalties
    - a) A violation of any provision of this chapter shall be a civil infraction. Enforcement activities will be conducted pursuant to LMC 1.40.020.
    - b) A home occupation may be suspended or revoked by the Director of the Community Development Department as an administrative decision. 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.

Staff will give a brief explanation of the code amendment recommendations for Commission review and discussion. The Commission will then be asked for any additional revisions and/or a recommendation to set the amended code for public hearing for public input on the code amendments.

## **RECOMMENDATION**

Discuss proposals with a possible setting of a public hearing

## **ATTACHMENTS**

- A. Proposed Ordinance

1 **CITY OF LYNNWOOD**

2  
3 **ORDINANCE NO. \_\_\_\_\_**

4  
5 AN ORDINANCE OF THE CITY OF LYNNWOOD,  
6 WASHINGTON, AMENDING LYNNWOOD MUNICIPAL  
7 CODE SECTIONS 21.42.300 AND 21.43.300, RELATING TO  
8 HOME OCCUPATIONS IN THE SINGLE-FAMILY AND  
9 MULTI-FAMILY RESIDENTIAL ZONES; AND PROVIDING  
10 FOR SEVERABILITY, AN EFFECTIVE DATE AND  
11 SUMMARY PUBLICATION.  
12  
13

---

14  
15 WHEREAS, pursuant to Chapters 35A.11 and 35A.63 RCW the City Council of the  
16 City of Lynnwood has the authority to adopt ordinances relating to the use of real property  
17 located within the City; and  
18

19 WHEREAS, technology, economic shifts, and entrepreneurship allow and encourage  
20 business activities that can be operated out of the home; and

21 WHEREAS, with the application of appropriate standards it is possible to conduct a  
22 variety of business activities from a home without adversely impacting the neighborhood; and

23 WHEREAS, if appropriately regulated income derived from a home occupations and  
24 having more people in a neighborhood during business hours could encourage neighborhood  
25 stability and safety; and

26 WHEREAS, the present zoning code could be construed to be overly restrictive with  
27 regards to allowed home occupations; and

28 WHEREAS, the City of Lynnwood has received a public comment to allow personal  
29 services as a home occupations; and

30 WHEREAS, the City believes that the allowance of personal services as a permitted use  
31 incorporating into an updating of this section of the code would be of economic benefit to  
32 residents and the community; and

33 WHEREAS, the Community Development Director may approve with modification an  
34 application for a home occupation and withdraw an approval;

35 WHEREAS, the City Council desires to amend the Lynnwood Municipal Code in order  
36 to address these issues and to clarify the intent of Ordinances No. 2466 and No. 2586,  
37 respectively; now, therefore

1 THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, DO  
2 ORDAIN AS FOLLOWS:

3 Section 1. Sections 21.42.300 and 21.43.300 of the Lynnwood Municipal Code are amended  
4 to read as follows:

5 **21.42.300 and 21.43.300 Home Occupations.**

6 A home occupation may be permitted by issuance of a business license, pursuant to LMC Title 5,  
7 provided the business complies with this and other applicable sections of the Lynnwood  
8 Municipal Code.

9 A. Area Used. A home occupation may only be conducted in the principal building and not  
10 in an accessory building. The area devoted to the home occupation may comprise no more than  
11 25 percent of the area of the principal building. Any extension of the home occupation to the  
12 outdoors, including, but not limited to, paving or yards for parking, outdoor storage or activity,  
13 indoor storage or activity visible from outdoors (e.g. in an open garage) is prohibited.

14 B. Access. Access to the space devoted to the home occupation shall be from within the  
15 dwelling, not internally "closed off" or separated from the living areas of the home, and not  
16 from a separate outside entrance.

17 C. Employment. No one other than the members of the resident household may perform  
18 labor or personal services on the premises.

19 D. Stock in Trade. The processing, storing, and occasional sale of handicrafts made on the  
20 premises and other small products is allowed, subject to compliance with other conditions of  
21 this title. The display or storage of goods outside the premises or in a window is prohibited.

22 E. Equipment, Use, and Activities. No equipment may be used and no activities may be  
23 conducted which would result in noise, vibration, smoke, dust, odors, heat, glare, or other  
24 conditions exceeding in duration or intensity those normally produced by a residential use.  
25 Normal residential uses shall be construed as including the above impacts only on an occasional  
26 weekend or evening basis (e.g. in connection with a hobby or home/yard maintenance), and not  
27 on a daily basis.

28 F. Traffic. A home occupation shall not generate traffic in excess of normal residential  
29 traffic. Normal residential traffic for the purposes of regulating home occupation traffic shall  
30 be defined as 10 trips per day and one trip per hour. Delivery services such as the Post Office,  
31 UPS, FedEx and similar, which make normal deliveries to residential neighborhoods, shall not  
32 be included in the assessment. Trips, whether personal or for business, by residents of the  
33 dwelling, shall also not be included. Home occupations that generate traffic or parking, are  
34 limited to the hours of 7:00 a.m. to 9:00 p.m.

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

- 37 1. Automotive repairs or detailing;
- 38 2. Small engine and major appliance repair;
- 39 3. Boarding, grooming, kenneling, or medical treatment of animals;
- 40 4. Contractors' shops (with the exception of administrative and office functions).
- 41 Outdoor storage of equipment, materials, or more than one vehicle related to
- 42 the business is prohibited;
- 43 5. On-site sale of firewood;
- 44 6. Sheet metal fabrication;
- 45 7. Unlicensed or uncertified health care or other physical or personal services
- 46 administered directly to the client at this location. Beauty/barber shops and
- 47 other similar activities having more than one station.

1 8. Any other use as determined by the Community Development Director with a  
2 demonstrated tendency significant potential to violate one or more of the  
3 conditions of this section.

4 H. Signs. Any home occupation sign must meet the residential sign regulations in LMC  
5 21.16.290.

6  
7 I. Exemptions. The following shall not be regulated under this ordinance: garage sales,  
8 yard sales, bake sales, and similar as long as they do not occur more than five times per  
9 year per home.

10 J. Process.

11 1. Applications. The application for a home occupation permit shall be submitted  
12 on a form concurrently with a business license, and shall be acknowledged by the  
13 property owner if other than the applicant. Applications shall include a copy of a  
14 site plan showing parking and a footprint for the premises showing access and  
15 the square footage of the premises and the square footage allocated to the  
16 occupation.

17 2. Conditions. The Director of the Community Development Department may  
18 impose additional conditions to mitigate any potential adverse impacts on the  
19 surrounding uses.

20 3. Business License. A business license shall be obtained from the City' Clerk's  
21 office and will be maintained. If the license is not maintained, the home  
22 occupation approval shall become null and void and a new application shall be  
23 required to reestablish the use.

24 5. Review, Enforcement, and Penalties

25 a) A violation of any provision of this chapter shall be a civil infraction.  
26 Enforcement activities will be conducted pursuant to LMC 1.40.020..

27 b) A home occupation may be suspended or revoked by the Director of the  
28 Community Development Department as an administrative decision.

29 The Director may base his action on:

30 i. Lack if compliance with the conditions of the permit or its approval,  
31 or with the provisions of the development code, or upon finding that  
32 the operation of the home business creates a nuisance or hazard, or  
33 has been abandoned, or was procured by mistake, fraud or deception.

34  
35 Section 2. If any section, sentence, clause or phrase of this ordinance should be held to be  
36 invalid or unconstitutional by a court of competent jurisdiction, such invalidity or  
37 unconstitutionality shall not affect the validity or constitutionality of any other section,  
38 sentence, clause or phrase of this ordinance.

39 Section 3. This ordinance or a summary thereof consisting of the title shall be published in the  
40 official newspaper of the City, and shall take effect and be in full force five (5) days after  
41 publication.

1 PASSED BY THE CITY COUNCIL, the \_\_\_\_\_ day of July, 2010 and approved by the  
2 Mayor this \_\_\_\_\_ day of July, 2010.

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34

APPROVED:

\_\_\_\_\_  
Don Gough  
Mayor

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Vicki Heilman  
Assistant Finance Director

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

FILED WITH ADMINISTRATIVE SERVICES: \_\_\_\_\_  
PASSED BY THE CITY COUNCIL: \_\_\_\_\_  
PUBLISHED: \_\_\_\_\_  
EFFECTIVE DATE: \_\_\_\_\_  
ORDINANCE NUMBER: \_\_\_\_\_

