

AGENDA
Lynnwood Planning Commission
Meeting
Thursday, May 28, 2015 — 7:00 pm
Council Chambers, Lynnwood City Hall
19100 44th Ave. W, Lynnwood, WA 98026

A. CALL TO ORDER – ROLL CALL

B. APPROVAL OF MINUTES

1. April 23, 2015 meeting

C. CITIZEN COMMENTS – (on matters not scheduled for discussion or public hearing on tonight's agenda) Note: Citizens wishing to offer a comment on a non-hearing agenda item, at the discretion of the Chair, may be invited to speak later in the agenda, during the Commission's discussion of the matter. Citizens wishing to comment on the record on matters scheduled for a public hearing will be invited to do so during the hearing.

D. PUBLIC HEARINGS

1. Code Amendment: Prohibition of Retail Sale, Processing and Production of Recreation Marijuana and Marijuana-Infused Products
2. Zoning Code Corrections – Omnibus Amendments

E. WORK SESSION TOPICS

1. Six-Year Transportation Improvement Plan (TIP)

F. OTHER BUSINESS

G. COUNCIL LIAISON REPORT

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.

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**CITY OF LYNNWOOD
PLANNING COMMISSION MINUTES
April 23, 2015 Meeting**

Commissioners Present:	Staff Present:
Richard Wright, Chair	Paul Krauss, Comm. Devt. Director
George Hurst, Second Vice Chair	Corbitt Loch, Dep. Director Comm. Devt.
Maria Ambalada	Jeff Elekes, Dep. Director, Public Works
Doug Jones	David Kleitsch, Director, Economic Devt.
Robert Larsen	Michelle Szafran, Associate Planner
Michael Wojack	Gloria Rivera, Senior Planner
Commissioners Absent:	Other:
Chad Braithwaite, Vice Chair	Councilmember Van AuBuchon

Call to Order

The meeting was called to order by Chair Wright at 7:00 p.m.

Approval of Minutes

1. Approval of minutes of the March 26, 2015 Meeting

Motion made by Commissioner Wojack, seconded by Commissioner Larsen, to approve the minutes as presented. Motion passed unanimously (6-0).

Citizen Comments

None.

Public Hearing

1. Draft 2015 Comprehensive Plan Update and Zoning Map amendment

Chair Wright reviewed the purpose of and the procedures for the hearing.

Staff Presentation:

Deputy Director Corbitt Loch explained that the Comprehensive Plan is a long-term policy guide for the City, intended to provide direction for day-to-day decision making and the adoption of development regulations. The intended lifespan of the Comprehensive Plan is 20 years with potential amendments in the meantime as needed. The ten Elements include: Introduction; Land Use; Community Character; Economic Development; Transportation; Parks;

1 Recreation & Open Space; Housing; Environment; Capital Facilities and Utilities;
2 and Implementation.

3
4 The Comprehensive Plan is mandatory for Lynnwood and other jurisdictions
5 subject to the Growth Management Act. The City is required to prepare a 20-
6 year plan that accommodates future population and employment growth, is
7 consistent with the Growth Management Act, has elements that are consistent
8 with each other, and is coordinated with other plans that affect it. This draft
9 Comprehensive Plan contains a small number of substantive changes, but a
10 large number of stylistic changes to create a more readable and functional
11 document. It has been reviewed by other agencies including the Puget Sound
12 Regional Council (PSRC). PSRC has given comments which have been
13 distributed to the Planning Commission.

14
15 Deputy Director Loch explained that the Planning Commission has worked
16 extensively on this document, holding over 14 different public meetings and 23
17 different discussions to review and refine each of the Elements. Virtually all
18 departments in the City have been involved in this process. Legal public notice
19 has been provided as required law. An environmental review (SEPA) was been
20 completed as required by state law. No comments were received on the
21 environmental review.

22
23 A table summarizing the changes to each Element in the Comprehensive Plan
24 was reviewed. Deputy Director Loch commented that the most substantive
25 change contained within this Draft includes population and employment growth
26 targets. He explained that Snohomish County has the authority to allocate future
27 population growth to all areas within the County. Lynnwood is required to
28 provide capacity for population targets and employment targets for the year
29 2035. The current population of Lynnwood is about 36,000; the new population
30 target for 2035 would be 54,000. There are currently 25,000 jobs in the City; the
31 new employment target would be 42,000 jobs in 2035.

32
33 Deputy Director Loch reviewed the items not being changed in this draft. These
34 included: land uses, protection of single family areas, the focus on siting future
35 growth in areas with infrastructure capacity, such as the Lynnwood Regional
36 Growth Center and along Highway 99.

37
38 There is one proposed map change which involves commercial properties along
39 Alderwood Mall Parkway, south of Interstate 5. The map amendment is not due
40 to any development proposal or change by the property owners. Staff has
41 proposed this map amendment as a housekeeping measure. The area is
42 currently zoned Mixed Use (MU), but is surrounded by Planned Commercial
43 Development (PCD) zoning. The proposed change would make the zoning PCD,
44 for consistency with the surrounding commercial properties.

45

1 Future work to come to the Planning Commission will include: a focus on the
2 College District, suggestions related to the City's Vision, the Parks Master Plan,
3 Sound Transit 3, urban design, and neighborhood orientation.

4
5 Deputy Director Loch stated the Planning Commission had received all written
6 testimony previously received by staff, but a letter was received just before the
7 beginning of the meeting, from Mr. Keith Maw. Mr. Maw had also provided an
8 email which had already been forwarded to the Planning Commission. The email
9 related to concerns about sustainability and energy conservation, which were
10 taken out of the Comprehensive Plan in an effort to streamline the Plan. Deputy
11 Director Loch explained that this would be addressed as staff works through the
12 Healthy Communities issues in the next year, but even so, may not be proposed
13 for inclusion in the Comprehensive Plan.

14
15 Chair Wright opened the hearing for public testimony at 8:29 p.m.

16
17 Public Testimony:

18
19 Economic Development Director David Kleitsch, City of Lynnwood, 4114 – 198th
20 Street, Lynnwood, WA 98036, spoke on behalf of the Economic Development
21 Advisory Group. He reviewed the process that the Economic Development
22 Advisory Group went through in preparing recommendations for the Economic
23 Development Element of the Comprehensive Plan. In 2004 the first Economic
24 Development Profile and Action Plan were prepared and adopted by Council.
25 The Goals, Strategies, and Actions were incorporated by the City Council into the
26 Comprehensive Plan ten years ago in November of 2005. The City Council
27 approved a consultant contract with Community Attributes in June of 2013 to
28 update the community profile and the economic development plan. The
29 consultant worked with the Economic Development Advisory Group to update the
30 Goals, Strategies and Actions to be incorporated into the Economic Development
31 Action Plan. He summarized that the Economic Development Advisory Group
32 recommends adoption of the Goals, Strategies, and Actions within the 2015
33 Comprehensive Plan Update.

34
35 Chair Wright read the full content of the letter from Keith Maw into the record.

36
37 Seeing no additional public testimony, the public testimony portion of the hearing
38 was closed at 7:46 p.m.

39
40 Deliberation:

41
42 Commissioner Larsen commented that Mr. Keith Maw is quite dedicated and
43 passionate about sustainability and energy alternatives. He wishes him luck with
44 those important initiatives. Commissioner Larsen stated that the Comprehensive
45 Plan, as written, does a great job of addressing sustainability issues and
46 measures that can accomplished by the City. He encouraged Mr. Maw to raise

1 his concerns at the state or the national level where he can perhaps be more
2 effective.

3
4 Commissioner Hurst asked about staff's thoughts about the PSRC letter which
5 refers to Vision 2040. Deputy Director Loch replied that in general staff thinks
6 the comments are reasonable, but there hasn't been time to incorporate them
7 yet. He noted that both the PSRC and Mr. Maw had stated that some of the
8 policy language is rather passive and could be more definitive. Staff hopes to
9 make some of these types of changes before going to the City Council. These
10 would be minor changes that would not change the meaning of the policies as
11 currently written.

12
13 Commissioner Hurst asked about PSRC's request for a more-detailed analysis of
14 the funding capability for the 20-year list of transportation projects. Public Works
15 Deputy Director Jeff Elekes commented that financial analysis was done when
16 the traffic impact fee program was developed. Part of that work included the
17 philosophy that growth should pay for growth to a certain level and the rest can
18 be funded using regular budgeting processes. In the short-term, there is a six-
19 year Transportation Improvement Plan which is reviewed on an annual basis.
20 The City utilizes a biennial budget. The Transportation Element of the
21 Comprehensive Plan supports the use of a long-range improvement plan, a six-
22 year funding strategy, and a two-year budget. This approach may not be the level
23 of detail that PSRC would like to see, but accomplishes the intent of a 20-year
24 funding strategy.

25
26 Commissioner Jones asked about the 20-year transportation improvement list,
27 which contains many projects solely for bicycle routes. He noted that he is not in
28 favor of bike lanes within streets because he would like to see road funding used
29 for automobile infrastructure. He asked if these bicycle and pedestrian projects
30 are actually going to happen. Deputy Director Elekes replied that the City looked
31 at missing links in the City for sidewalks and bike lanes. From that information,
32 staff developed a Non-Motorized Plan which includes a skeleton system for
33 pedestrian and bicycle connections. He stated that bicycles are one of the
34 transportation modes that people use and need to be addressed. The project list
35 was developed using criteria for prioritization. Some of the projects have recently
36 been implemented, due in part to a grant from Verdant Health. Not all of the
37 projects are funded, but they are on the list for a complete transportation system.
38 He noted that there is not a dedicated funding source for bike lanes and
39 sidewalks. Projects are prioritized based upon need and value, then staff
40 pursues funding for high-priority projects.

41
42 Commissioner Ambalada asked why the work called for by the existing Energy
43 and Sustainability Element, as discussed by Keith Maw, can't be accomplished
44 along with other City priorities. Deputy Director Loch said he would defer to
45 Community Development Director Krauss when he arrives to answer that in
46 detail, but summarized that the recent recession changed every work plan of

1 every department, and limited City work to its core functions. He emphasized
2 that the City continued to do things within its power, such as installing LED
3 streetlights, transitioning to a more fuel-efficient fleet, changing out lighting and
4 HVAC systems in City facilities. Deputy Director Elekes discussed ways the City
5 pursues sustainability even if it isn't an explicit mandate of the Comprehensive
6 Plan. One of these is recycling in place road paving and subgrade. Also, when
7 staff applies for grant funding from the Transportation Improvement Board,
8 projects earn extra points for incorporating sustainability features. At City Hall,
9 the building services crew is replacing fluorescent bulbs with LEDs.

10
11 Commissioner Wojack said he agreed with the recommendations to make some
12 of the policy language stronger. He referred to the increased population targets
13 and asked if there is enough space to meet the targets. Deputy Director Loch
14 stressed that the growth targets involve analysis of hypothetical scenarios. The
15 City is required to show mathematically that the growth targets could be achieved
16 if real estate market forces desire it. A good example of where there is
17 theoretical land use capacity is around the Mall.

18
19 Commissioner Larsen commented that in March 2015, the City Council had an
20 in-depth discussion regarding the Community Vision. At that time, the Council
21 reiterated their support of the Vision document as written and adopted in 2009.
22 The Council also created a four-year review cycle for the Vision. He is happy to
23 see that staff included reference of the public's role in creating the Vision
24 document. He recommended that the sub-elements of the Vision's seven bullets
25 be added because they are details of how the Vision will be realized. He also
26 recommended that the Economic Development Plan include a description of the
27 process used for the Economic Development Element.

28
29 Commissioner Ambalada commented that the Department of Commerce
30 recommended having public participation in the Comprehensive Plan. The
31 Department of Commerce offers grants for public participation initiatives.

32
33 Commissioner Larsen said that working on the Comprehensive Plan has been a
34 pleasure. He is pleased with where Update may take the City in the future, and
35 how Lynnwood was able to plan for a significant increase in population without
36 disrupting existing single family residential areas.

37
38 *Motion made by Commissioner Jones, seconded by Commissioner Wojack, to*
39 *submit the Comprehensive Plan to the City Council for approval.*

40
41 Commissioner Larsen requested the addition of his recommended changes to
42 the Economic Development Element and the Community Vision within the
43 Introduction Element. Commissioner Jones and Commissioner Wojack indicated
44 that the intent of the motion was to include those two changes as part of the
45 Commission's recommendation.

46

1 *Motion passed unanimously.*

2
3 Chair Wright thanked staff and the Commissioners for their hard work on the
4 2015 Comprehensive Plan Update.

5
6 **Work Session**

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8 None.

9
10 **Other Business**

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12 None.

13
14 **Council Liaison Report**

15
16 Councilmember AuBuchon thanked the Commissioners, staff, and directors for
17 their hard work on the Comprehensive Plan. He invited the commissioners to
18 attend the Council meeting to hear what the Council has to say about the
19 Planning Commission's work.

20
21 **Director's Report**

22
23 Director Krauss had the following comments:

- 24 • The Council is scheduled to have the public hearing on the Essential
25 Public Facilities Ordinance on April 27, 2015.
- 26
27 • The shipping container ordinance is also coming to Council soon.
- 28
29 • Sound Transit Board approved the preliminary plans, stations, and design
30 for Lynnwood Link today. They did not add stations at 185th and 130th.
- 31
32 • At the Sound Transit Board meeting, Everett Councilmember Paul Roberts
33 added an amendment, that was supported by the Board, that Sound
34 Transit should be a participant in improving not only roads at the transit
35 center, but also pedestrian and bicycle access to the transit center.
36 Director Krauss indicated this action would be beneficial to Lynnwood.

37
38 **Commissioners' Comments**

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40 Commissioner Jones said it was good news about Sound Transit. He spoke in
41 support of having a joint meeting with the City Council. He expressed concern
42 about the paper and delivery costs spent on packets and asked if the City has
43 considered transitioning to tablets. Director Krauss replied that the Council is
44 working on transitioning to electronic tablets. He suggested raising this question
45 at the joint meeting on May 19, 2015.

46

1 Chair Wright stated that at one time he was part of a pilot program for tablets with
2 the Planning Commission. He enjoys reading the packet electronically on his
3 personal tablet prior to meetings, and this is his preferred way to digest the
4 material. He spoke in support of Commissioner Jones' suggestion to transition to
5 digital format.

6
7 Commissioner Ambalada commented that there are more than 18,800 American
8 Filipino residents in Snohomish County. Many people recently organized in
9 Everett and are on the way to contribute to economic growth of American
10 Filipinos in the United States, and especially in Snohomish County. She hopes
11 this will trickle over to the Philippines.

12
13 Commissioner Larsen spoke in support of transitioning to tablets.

14
15 He spoke in support of moving to electronic packets, but stated he likes having
16 paper for writing notes and questions.

17
18 Commissioner Hurst spoke in support of transitioning to tablets. He noted that
19 Keith Maw had commented how hard it is to find hearing notifications on the
20 City's webpage. He recommended adding a tab linking to public hearing notices
21 on the home page of the City of Lynnwood website.

22
23 **Adjournment**

24
25 *Motion made by Commissioner Wojack, seconded by Commissioner Jones, to*
26 *adjourn the meeting. Motion passed unanimously.*

27
28 The meeting was adjourned at 8:30 p.m.

29
30
31 _____
32 Richard Wright, Chair

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**Code Amendment: Prohibition of
Retail Sale, Processing and Production
of Marijuana and Marijuana-Infused
Products
(CAM-002708-2015)**

Agenda Item: D.1

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

Staff Report

Staff Contact: Gloria Rivera, Community Development

Summary

The purpose of this agenda item is to conduct a public hearing on the proposed text amendments to the Lynnwood Municipal Code (LMC) with regards to the prohibition of recreational marijuana operations and collective gardens/dispensaries, prohibiting the production, processing and sale. Following the public testimony portion of the public hearing, the Commission may begin its deliberation on the matter--and ultimately make one or more recommendations for the City Council.

At a future date, the City Council will conduct a public hearing on the draft amendments, and thereafter take action of the proposal.

Action

Receive public input on the proposed text amendments. Deliberation by the Commission will follow the public hearing.

Background

Washington voters approved Initiative 502 (I-502) in 2012, which “authorizes the state liquor control board to regulate and tax marijuana for persons twenty-one years of age and older, and add a new threshold for driving under the influence of marijuana”. I-502 directed the Washington State Liquor Control Board (WSLCB) to administrative regulations and to license and approve retail sales, production and processing of marijuana. That State legislation, and the measures addressed by this agenda item relate to recreational marijuana and medical marijuana collective gardens and dispensaries.

Under the regulations approved by the WSLCB in September, 2013, the City of Lynnwood would be allocated up to two licenses for retail sale of marijuana within the City limits. The State does not limit the number of licenses for production and processing operations.

In the meantime, the Attorney General of Washington issued AGO 2014 No.2, which concluded that Initiative 502 does not preempt local governments from licensing and regulating marijuana production, processing and retail sales operations, and that local governments may establish regulations that make it impractical for marijuana businesses to locate within their boundaries, as long as the regulations are a reasonable exercise of the police power.

Cities and counties in the State of Washington have adopted a variety of approaches to the regulation of recreational and medical marijuana/dispensaries.

Staff initially prepared an ordinance that would prohibit recreational marijuana operations in single and multi-family residential zones and that would allow retail sales, production, and processing in specified zones. Following Planning Commission review, the City Council held a public hearing on the ordinance on July 28, 2014.

Since the July 28th Council hearing, further research has been performed by the staff regarding the direction other communities were taking regarding the regulation of marijuana.

While the various ordinances have been prepared, six-month moratoriums were approved by the City Council regarding production, processing, and sale of recreational marijuana and medical marijuana/dispensaries and marijuana related merchandise on June 24, 2013. Six month extensions of the initial moratorium were approved by the Council on December 9, 2013, May 27, 2014 and December 8, 2014. These moratoriums were approved so that the City Council could determine the approach they believe best suited the community.

While the Council was considering the alternative to marijuana regulations, it adopted interim regulations that prohibited marijuana operations in single-family and multi-family residential zones. These interim regulations were approved for six months on February 24, 2014, with six months extensions of the interim regulations approved on July 28, 2014 and February 9, 2015.

As an alternate approach, City staff and the City Attorney have prepared the proposed Ordinance that would prohibit retail sales, production and processing of marijuana and marijuana-infused products in all zones. The prohibition would apply to both recreation and medical marijuana/dispensaries.

Previous Planning Commission Action

The Planning Commission held a public hearing on June 26, 2014, on the ordinance that would have allowed marijuana activities in select zones in the City. Following receipt of testimony, a motion was made to make a recommendation for the Council to approve the ordinance which died for the lack of a second.

Funding

NA.

Adm. Recommendation

1. Receive public input on the draft amendments.
2. Upon closure of the public testimony portion of the hearing, begin deliberation.
3. At the conclusion of the Commission's deliberation, either:
 - a. Recommend approval of the draft amendments as written; or
 - b. Recommend approval of the draft amendments--as amended by the Commission; or
 - c. Direct staff to prepare revisions for the Commission's review at a future meeting. If the changes desired are substantive, it would be appropriate to continue the public hearing to allow public comment on those forthcoming edits.

Suggested motions:

1. "I move that the Planning Commission recommend approval the draft text amendments to Title 21 LMC to prohibit the retail sale, processing and production of recreational marijuana and marijuana-infused products."

Attachments

1. Draft Ordinance

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1 CITY OF LYNNWOOD

2 ORDINANCE NO.

3 AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, RELATING TO
4 RECREATIONAL MARIJUANA PRODUCTION, PROCESSING, AND RETAIL SALES
5 PURSUANT TO INITIATIVE 502, AND TO MEDICAL MARIJUANA COLLECTIVE
6 GARDENS, AMENDING CHAPTER 21.02 LMC; ADDING NEW SECTIONS 21.42.103,
7 21.43.103, 21.44.103, 21.46.103, 21.50.103, 21.52.103, AND 21.71.180 TO THE
8 LYNNWOOD MUNICIPAL CODE, AMENDING SECTIONS 21.48.100, 21.54.100,
9 21.56.100, 21.57.400, 21.58.300, 21.60.300, AND 21.62.210 OF THE LYNNWOOD
10 MUNICIPAL CODE, REPEALING ORDINANCE NO, 2998, 2999, 3039, 3040, 3045,
11 3061, 3062, 3072, 3095, 3096 AND 3106; AND PROVIDING FOR SEVERABILITY, AN
12 EFFECTIVE DATE AND SUMMARY PUBLICATION.

13
14 WHEREAS, since 1970, federal law has prohibited the manufacture, delivery and
15 possession of marijuana as a Schedule I drug, based on the federal government’s categorization
16 of marijuana as having a “high potential” for abuse, lack of any accepted medical use, and
17 absence of any accepted safety for use in medically supervised treatment,” *Gonzales v. Raich*,
18 545 U.S. 1, 14 (2005), Controlled Substance Act (CSA)(84 Stat. 1242, 21 U.S.C. 801 et. seq.); and
19

20 WHEREAS, in 1988, the voters of Washington State approved Initiative 692 (I-692),
21 codified as Chapter 69.51A RCW; and
22

23 WHEREAS, the intent of I-692 was that qualifying “patients with terminal or debilitating
24 illnesses who, in the judgment of their physicians, would benefit from the medical use of
25 marijuana, shall not be found guilty of a crime under state law,” (RCW 69.51A.005), but that
26 nothing in the law “shall be construed to supersede Washington State law prohibiting the
27 acquisition, possession, manufacture, sale or use of marijuana for non-medical purposes” (RCW
28 68.51A.020); and
29

30 WHEREAS, in 2011, the Washington State Legislature passed ESSB 5073, which provides
31 that a qualifying patient of his/her designated care provider are presumed to be in compliance,
32 and not subject to state imposed criminal consequences, if they possess no more than 15
33 cannabis plants, nor more than 15 ounces of usable cannabis (other qualifications apply); and
34

35 WHEREAS, Washington’s Governor vetoed all of the provisions in ESSB 5073 relevant to
36 medical marijuana dispensaries, but left the provisions relating to cultivation of marijuana for
37 medical use by qualified patients individually and in collective gardens; and
38

39 WHEREAS, the Governor’s veto referenced the position of the United States Department
40 of Justice and multiple United States Attorneys that state employees who license or assist
41 marijuana operations in becoming licensed would not be immune from federal criminal liability
42 for assisting the applicants or conspiring to assist the applicants to violate federal law; and

43 WHEREAS, the Governor’s veto of the provisions in ESSB 5073 on the subject of medical
44 marijuana dispensaries can be interpreted to mean that this use is prohibited by state law, and
45 it is already prohibited under federal law; and

46
47 WHEREAS, RCW 69.51A.085 permits up to ten qualifying patients to share in the
48 responsibility to plant, grow, and harvest up to forty-five marijuana plants that contain no more
49 than twenty-four *usable* ounces per patient so long as no usable marijuana is delivered to
50 anyone other than the (up to) ten qualifying patients that share responsibility for the “collective
51 garden”; and

52
53 WHEREAS, throughout the State, businesses are known to call medical marijuana
54 dispensaries “collective garden,” despite the fact that they are operating a retail sales location
55 with no on-site growing operation, have more than ten participating customers, and their
56 participating customers do not share in the responsibility for planting, growing or harvesting
57 the marijuana; and

58
59 WHEREAS, RCW 69.51A.140 expressly authorizes local jurisdictions to enact zoning
60 requirements, business license requirements, and health and safety requirements for the
61 production, processing and dispensing of cannabis and cannabis products; and

62
63 WHEREAS, the City code prevents the City from issuing a business license to any
64 applicant unless the business and the applicant comply with all provisions of all applicable
65 ordinances and laws (LMC 5.04.010(C). and the City shall revoke any business license where the
66 licensee uses or occupies property, or conducts or operates businesses, in violation of any City,
67 State or federal law (LMC 5.04.045); and

68
69 WHEREAS, because the manufacturing and delivery of marijuana is prohibited by federal
70 law, the City code effectively prohibits the issuance of a business license by the City for any
71 business that involves the manufacturing or delivery of marijuana; and

72
73 WHEREAS, the issuance of licenses that authorize businesses to engage in business that
74 violates the federal CSA, could subject the City and/or its employees to criminal penalties under
75 the CSA; and

76
77 WHEREAS, in November 2012, voters of Washington State approved Initiative 502 (I-
78 502), which is codified in Chapters 46.04, 46.20, 46.61 and 69.50 RCW, and which authorizes
79 the Washington State Liquor Control Board (LCB) to regulate and tax recreational marijuana for
80 persons twenty-one years of age or older, and adds a new threshold for driving under the
81 influence of marijuana; and

82
83 WHEREAS, I-502 required that the LCB establish a system for licensing marijuana
84 producers, processors and marijuana retailers by December 1, 2013; and

85

86 WHEREAS, I-502 directs the LCB to develop rules and regulations to: (1) determine the
87 number of producers, processors, and retailers of marijuana by county; (2) develop licensing
88 and other regulatory measures; (3) issue licenses to producers, processors, and retailers at
89 locations that comply with the Initiative’s distancing requirements that prohibit such uses
90 within one thousand feet of schools, daycares, public parks, libraries, and other designated
91 facilities; and (4) establish a process for cities to comment prior to issuance of such licenses;
92 and

93
94 WHEREAS, the LCB had adopted administrative rules for the licensing and regulation of
95 marijuana producers, processors, and retailers, allowing for up to two (2) marijuana retail
96 licenses may be issued in the City of Lynnwood; and

97
98 WHEREAS, the federal government, through the Department of Justice, issued a
99 memorandum to United States Attorneys providing guidance regarding marijuana enforcement
100 on August 29, 2013; while the memorandum indicates that enforcement of marijuana-related
101 regulations in Washington should rest primarily with state and local law enforcement agencies,
102 the memorandum also states that if robust measures are ineffective to guard against certain
103 identified harms or in the event of reluctance on the part of the state to ensure against the
104 occurrence of identified harms, the federal government reserves the right to enforce federal
105 law despite the state’s regulatory structure, and to challenge the state licensing structure itself;
106 and

107
108 WHEREAS, in a joint statement dated August 29, 2013, Governor Jay Inslee and Attorney
109 General Bob Ferguson stated the following:

110 “Today we receive confirmation Washington’s voter-approved marijuana law will be
111 implemented.

112 We received good news this morning when Attorney General Eric Holder told the governor the
113 federal government would not preempt Washington and Colorado as the states implement a
114 highly regulated market for marijuana,

115 Attorney General Holder made it clear that the federal government will continue to enforce the
116 federal Controlled Substance Act by focusing its enforcement on eight specific concerns,
117 including the prevention of distribution to minors and the importance of keeping Washington-
118 grown marijuana within our state’s borders;

119 We share those concerns and are confident our state initiative will be implemented as planned.

120 We want to thank the Attorney General for working with the states on this and for finding a
121 way that allows our initiative to move forward while maintaining a commitment to fighting
122 illegal drugs. This reflects a balanced approach by the federal government that respects he
123 states’ interests in implementing these laws and recognizes the federal government’s role in
124 fighting illegal drugs and criminal activity.”; and

125
126 WHEREAS, in light of the passage of I-502 and statement from LCB, Department of
127 Justice, Governor Inslee and Attorney General Bob Ferguson, the City has concluded that it is
128 likely that the LCB will be issuing licenses for marijuana producers, marijuana processors, and
129 marijuana retailers to operate in the City; and

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WHEREAS, the City Council finds that there are likely harmful secondary effects associated with medical and recreational marijuana production, processing, distribution, and retail sales sites, which could include but are not limited to increased risk of invasion of such business facilities for purposes of theft resulting from the cash and marijuana maintained at these types of facilities; and

WHEREAS, such secondary effects could place Lynnwood residents, business owners, and others in danger of bodily harm, and will increase police enforcement risks and costs, and generally create undesirable liability exposure for the City; and

WHEREAS, in addition to concerns regarding land use compatibility, the City Council is also concerned about the secondary impacts from the establishment of facilities for the production, processing, distribution and retail sale of marijuana, including but not limited to, as negative health, safety, learning and life outcomes for Lynnwood residents; and

WHEREAS, marijuana use is on the rise. According to the U.S. Department of Health and Human Services 2012 National Survey on Drug Use and Health (NSDUH), 12 to 17 year old marijuana use for boys and girls combined was relatively unchanged since 2011, but there was a 20 percent increase in marijuana smokers among girls 12-17 since 2007, a 50 percent increase in the number of daily marijuana smokers among those aged 12 and up, a 12 percent increase in marijuana use among 18-25 year olds since 2007, and a 25 percent increase in marijuana use among the general population. (Substance Abuse and Mental Health Services Administration, *Results from the 2012 National Survey on Drug Use and Health: Summary of National Findings*, NSDUH Series H-46, HHS Publication No. (SMA) 13-4795, Rockville, MD: Substance Abuse and Mental Health Services Administration, 2013; and

WHEREAS, increased access and availability of supply is likely to increase the use of marijuana in the City, based on the experience in Colorado described on **Exhibit A**, attached hereto and incorporated by reference; and

WHEREAS, increased use of marijuana will have significant negative health, safety, learning and life outcome effects for the residents of the City as described in the sources listed on **Exhibit B**, attached hereto and incorporated by reference; and

WHEREAS, it is critical to the public safety and economic vitality of the City to ensure the impacts of businesses obtaining a license from LCB to produce, process, or retail recreational cannabis are minimized; and

WHEREAS, on January 16, 2014, the Attorney General of Washington issued AGO 2014 No. 2, which concluded that I-502 does not preempt local governments from licensing and regulating marijuana businesses, and that local governments may establish regulations that make it impractical for marijuana businesses to locate within their boundaries, as long as the regulations are a reasonable exercise of the police power; and

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WHEREAS, on March 31, 2014, the Washington State Court of Appeals, Division I, issued its opinion in *Cannabis Action Coalition v. City of Kent*, holding the City of Kent’s ordinance prohibiting medical marijuana collective gardens did not conflict with Washington’s Medical Use of Cannabis Act; and

WHEREAS, in August 2014, the Pierce County Superior Court issued its decision in *MMH, LLC v City of Fife*, holding that the City of Fife’s ordinance prohibiting I-502 marijuana businesses within that city is a valid exercise of municipal police power zoning authority, in accordance with the January 16, 2014 Attorney General Opinion; and

WHEREAS, in October 2014, the Chelan Superior Court issued its decision in *SMP Retail LLC v. City of Wenatchee*, also holding that the City of Wenatchee’s regulations which prohibit I-502 marijuana businesses within that city are a valid exercise of municipal police power authority, in accordance with the January 16, 2014 Attorney General Opinion; and

WHEREAS, both Superior Court decisions have been appealed to the pertinent Court of Appeals, but neither case has been set for hearing yet; and

WHEREAS, several other superior courts have issued decisions that follow the Attorney General Opinion, holding that cities have authority to prohibit I-502 marijuana businesses in the city; and

WHEREAS, I-502 does not curtail cities’ legal authority to regulate business licenses and lands uses within the city, and further, the LCB’s regulations do not include a process for determining whether a state license applicant’s proposed use complies with local zoning and business license requirements; and

WHEREAS, as a result of the LCB regulation’s silence as to local zoning and business license requirements, there is a risk that businesses will obtain state licenses to engage in marijuana related businesses within the City without regard to whether such businesses comply with City zoning and business license requirements; and

WHEREAS, although the City’s zoning and business licensing requirements will continue to apply, the issuance of a conflicting state license could cause confusion and unnecessary expense if the City’s laws do not explicitly address marijuana-related uses; and

WHEREAS, for the City to license marijuana businesses within the City while such activities violate federal law, the City would need to amend the City code to allow such licensing of activities that violate federal law; and

WHEREAS, issuance of a City business license to operate a business that violates the federal CSA within the City would be deemed by the federal government to be a violation of the

217 CSA and potentially subject the City, and/or its employees, to liability or federal prosecution;
218 and

219
220 WHEREAS, in 2005 in *Gonzales v. Raich*, 545 U.S. 1(2005), the United States Supreme
221 Court determined that intrastate regulation of marijuana by the federal government is a valid
222 exercise of the power of Congress and that in the event of a conflict between a state law that
223 permits marijuana production, processing, distribution and possession and the federal CSA, the
224 federal CSA will be deemed supreme; and therefore, it is unlikely that a court will determine
225 that a state law can require a city to permit a land use or license a business that constitutes a
226 crime under the federal CSA: and

227
228 WHEREAS, as a non-charter code city, Lynnwood has specific authority to determine the
229 appropriate uses of land through its zoning authority; and

230
231 WHEREAS, I-502 contained no language specifically limiting the authority of cities to
232 determine whether to permit marijuana business land uses within city boundaries, and the LCB
233 regulations provide that the issuance of a state license shall not be construed as a license for, or
234 an approval of, any violations of local rules or ordinances, including but not limited to, building
235 and fire codes, zoning ordinances, and business licensing requirements; and

236
237 WHEREAS, the production, processing, and retail sale of marijuana, which remains illegal
238 under federal law, has only recently become a permitted activity under Washington state law;
239 Colorado is the only other state that permits the retail production, processing and sale of
240 recreational marijuana, so the land use impacts associated with such uses have not been fully
241 established and are not fully understood but medical marijuana businesses in this state and
242 others are commonly associated increased crime, objectionable odors, and increased exposure
243 of children to marijuana; and

244
245 WHEREAS, it is unknown whether the state of Washington's regulatory scheme for
246 recreational marijuana will sufficiently protect the federal government's enforcement priorities
247 so as to continue avoiding federal enforcement of the CSA against marijuana businesses and/or
248 the state's regulatory scheme; and

249
250 WHEREAS, in accordance with the City's Comprehensive Plan, one of the City's key
251 planning and economic development goals is to create pedestrian friendly commercial districts,
252 and with the land use and other impacts of marijuana businesses and uses largely unknown, it
253 is not in the best interest of the City to allow marijuana businesses and uses that could
254 potentially disrupt the City's character and serve as a nuisance to the City's residents, property
255 owners, and business owners; and

256
257 WHEREAS, although Chapter 5.04 LMC effectively prohibits any business operation or
258 land use that involves producing, processing, or selling recreational marijuana, to avoid any
259 room for differing interpretations, it is in the best interest of the City to expressly prohibit all
260 marijuana related lands uses and businesses within the City; and

261
262 WHEREAS, the City Council finds that the health, safety, and welfare of the community is
263 best served by prohibiting and production, processing, selling or delivery of marijuana; and
264

265 WHEREAS, on June 24, 2013, the City Council adopted a moratorium in the processing of
266 licenses and permits for recreational marijuana operations (Ordinance No. 2998), which was
267 subsequently extended on December 9, 2013 (Ordinance No. 3039), on May 27, 2014
268 (Ordinance No. 3061), and on December 8 2014 (Ordinance No. 3095); and
269

270 WHEREAS, on June 24, 2013, the City Council adopted a moratorium in the processing of
271 licenses and permits for medical marijuana collective gardens (Ordinance No. 2999), which was
272 subsequently extended on December 9, 2013 (Ordinance No. 3040), on May 27, 2014
273 (Ordinance No. 3062), and on December 8, 2014 (Ordinance No. 3096); and
274

275 WHEREAS, on February 24, 2014, the City Council adopted interim zoning controls
276 prohibiting marijuana operations in single-family and multi-family zones (Ordinance No. 3045),
277 on July 28, 2014, the City Council again adopted interim zoning controls prohibiting marijuana
278 operations in single-family and multi-family zones (Ordinance No. 3072), and the interim
279 controls were extended on February 9, 2015 (Ordinance 3106); and
280

281 WHEREAS, Ordinances No. 2998, 2999, 3039, 3040, 3045, 3061, 3062, 3072, 3095, 3096
282 and 3106, require formal action by the City Council to terminate the moratoriums and interim
283 controls; and
284

285 WHEREAS, the ordinance is not intended to affect existing City, state and federal laws
286 that apply to personal use and possession of marijuana; and
287

288 WHEREAS, on May 7, 2015 on the Community Development Director, acting as
289 Lynnwood’s State Environmental Policy Act (SEPA) Responsible Official, issued a threshold
290 determination for this draft ordinance, which was not appealed; and
291

292 WHEREAS, on May 7, 2015 The State of Washington granted the City of Lynnwood
293 expedited review for the: Proposed ordinance amends the city's zoning codes (for all zones) to
294 prohibit recreational marijuana retail sales, processing and production as well as prohibition of
295 medical marijuana collective garden operations. This proposal was submitted for the required
296 state agency review under RCW 36.70A.106.
297

298 WHEREAS, on May 28, 2015, the Planning Commission held a public hearing on a draft
299 zoning ordinance; and
300

301 WHEREAS, on June 8, 2015, the City Council held a public hearing on the draft zoning
302 ordinance; and
303

304 WHEREAS, the City Council after due consideration finds that the regulations contained
305 in this ordinance are consistent with and implement the City’s Comprehensive Plan, and are
306 consistent with applicable state law, and will benefit the public health, safety and general
307 welfare;

308
309 NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNNWOOD DOES ORDAIN AS
310 FOLLOWS:

311
312 **Section 1.** Chapter 21.02, entitled “Definitions,” of the Lynnwood Municipal Code, is amended
313 to add new sections as follows, which shall be added to Chapter 21.02 in alphabetical order
314 with the other sections in Chapter 21.02 being renumbered accordingly:

315
316 21.02. **Marijuana.** “Marijuana” means all parts of the plant Cannabis, whether
317 growing or not, with a THC concentration greater than 0.3 percent on a dried weight
318 basis, the seeds thereof; the resin extracted from any part of the plant; and every
319 compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds
320 or resin. The term does not include the mature stalks of the plant, fiber produced from
321 the stalks, oil, or cake made from the seeds of the plant, or any other compound,
322 manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the
323 resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is
324 incapable of germination.

325
326 21.02. **Marijuana concentrates.** “Marijuana concentrates” means products
327 consisting wholly or in part of the resin extracted from any part of the plant Cannabis
328 and having a THC concentration greater than sixty (60) percent. The term “Marijuana
329 concentrates” does not include useable marijuana or marijuana-infused products.

330
331 21.02. **Marijuana processing.** “Marijuana processing” means a person, entity or
332 other business, licensed by the Washington State Liquor Control Board, processing
333 marijuana into useable marijuana and/or marijuana-infused products, and/or packaging
334 and labeling useable marijuana and/or marijuana-infused products for sale in retail
335 outlets, and/or selling useable marijuana and marijuana-infused products at wholesale
336 to marijuana retailers

337
338 21.02. **Marijuana producing or production.** “Marijuana producing” or
339 “marijuana production” means a person, entity or other business, licensed by the
340 Washington State Liquor Control Board, producing and/or selling marijuana at
341 wholesale to marijuana processors and other marijuana producers.

342
343 21.02. **Marijuana-infused products.** “Marijuana infused products” means
344 products that contain marijuana or marijuana extracts, are intended for human use, and
345 have a THC concentration greater than 0.3 percent and no greater than sixty (60)
346 percent. The term “marijuana-infused products” does not include useable marijuana,
347 marijuana concentrates.

348
349 21.02. **Marijuana retailing or marijuana retailer.** “Marijuana retailing” or
350 “marijuana retailer” means a business, licensed by the Washington State Liquor Control
351 Board, selling useable marijuana, marijuana concentrates, and/or marijuana-infused
352 products in a retail outlet.

353
354 21.02. **Marijuana, useable.** “Marijuana useable” (or “useable marijuana”)
355 means dried marijuana flowers. The term “Marijuana, useable” does not include either
356 marijuana concentrates or marijuana-infused products.

357
358 21.02. **Medical marijuana collective garden.** “Medical marijuana collective
359 garden” means the growing of medical cannabis by qualifying patients as provided in
360 Chapter 69.51A RCW, as new existing or as hereafter amended. A medical marijuana
361 collective garden may also include ancillary processing and distribution of medical
362 cannabis to support the collective garden.

363
364 **Section 2.** A new section 21.42.103 is added to the Lynnwood Municipal Code to read as
365 follows:

366
367 **21.42.103 Uses prohibited in the single-family residential zones**
368 A. Retail sales, production and processing of marijuana and/or marijuana-infused
369 products.
370 B. Medical marijuana collective gardens, as either a primary use, accessory use, or
371 home occupation.

372
373 **Section 3.** A new section 21.43.103 is added to the Lynnwood Municipal Code to read as
374 follows:

375
376 **21.43.103 Uses prohibited in the multiple-family residential zones**
377 A. Retail sales, production and processing of marijuana and/or marijuana-infused
378 products.
379 B. Medical marijuana collective gardens, as either a primary use , accessory use, or
380 home occupation.

381
382 **Section 4.** A new section 21.44.103 is added to the Lynnwood Municipal Code to read as
383 follows:

384
385 **21.44.103 Uses prohibited in the Public zones**
386 A. Retail sales, production and processing of marijuana and/or marijuana-infused
387 products.
388 B. Medical marijuana collective gardens.

389
390 **Section 5.** A new section 21.46.103 is added to the Lynnwood Municipal Code to read as
391 follows:

392

- 393 **21.46.103 Uses prohibited in the Commercial zones**
394 A. Retail sales, production and processing of marijuana and/or marijuana-infused
395 products.
396 B. Medical marijuana collective gardens.
397

398 **Section 6.** Section 21.48.100 of the Lynnwood Municipal Code is amended to read as follows:
399

- 400 **21.48.100 Permitted uses.**
401 A. All uses permitted in the Neighborhood Commercial (B-3) and Community
402 Business (B-1) zones are permitted in this classification, except for the following:
403 1. Outdoor used automobile sales;
404 2. Funeral parlors and mortuaries;~~and~~
405 3. Self-service storage facilities;
406 **4. Marijuana and marijuana-infused products retail sales, processing**
407 **and production.**
408 **5. Medical marijuana collective gardens.**
409

410 **Section 7.** A new section 21.50.103 is added to the Lynnwood Municipal Code to read as
411 follows:

- 412 **21.50.103 Uses prohibited in the Industrial zones**
413 A. Retail sales, production and processing of marijuana and/or marijuana-infused
414 products.
415 B. Medical marijuana collective gardens.
416

417 **Section 8.** A new section 21.52.103 is added to the Lynnwood Municipal Code to read as
418 follows:

- 419
420 **21.52.103 Uses prohibited in the Mixed Use/Business zone**
421 A. Retail sales, production and processing of marijuana and/or marijuana-infused
422 products.
423 B. Medical marijuana collective gardens.
424

425 **Section 9.** Section 21.54.100 of the Lynnwood Municipal Code is amended to read as follows:
426

- 427 **21.54.100 Land Use.**
428 A. Commercial Uses. Except as specifically stated otherwise in this section, all land
429 use permitted “by right” in the B-1 (Community Business) zone are permitted “by right”
430 in this zone. All land uses permitted with approval of a conditional use permit in the B-1
431 (Community Business) zone are permitted with approval of a conditional use permit in
432 this zone. All limitations on those land uses (reference LMC 21.46.110 through
433 21.46.119) shall apply in this zone, except as modified by the regulations in this chapter.
434 B. Residential Uses. Multifamily residential uses are permitted, provided, the
435 multifamily residential use is part of a mixed-use building or is on property that has
436 commercial uses. Multifamily: residential development without commercial uses on the
437 property shall not be permitted.

438 C. Conditional Uses. Notwithstanding the regulations of the B-1 zone, the following
439 uses are permitted in this zone with approval of a conditional use permit:

- 440 1. Convenience store.
- 441 2. Drive-in or drive-through window or any other facility that provides
442 services to customers in vehicles.
- 443 3. Church.
- 444 4. Home improvement stores.
- 445 5. Carpeting or floor covering stores.
- 446 6. Furniture stores.
- 447 7. Battery exchange station (electric vehicle).

448 D. Prohibited Uses. Notwithstanding subsections (A) and (B) of this section, the
449 following use are prohibited in this zone:

- 450 1. Vehicle display, sales, rental, repair, washing, or servicing as a principal
451 use except that:
 - 452 a. Retail sales of new automobile tires, batteries and other motor
453 vehicle accessories and installation thereof within a completely
454 enclosed building; and
 - 455 b. Retail sale of automobile and recreational vehicle fuels (but
456 without repairs or servicing) when accessory to an otherwise
457 permitted retail use over 50,000 square feet GFA.
- 458 2. Gas or service stations as a principal use.
- 459 3. Dry cleaning plants.
- 460 4. Appliance or small engine repair.
- 461 5. Self-service storage or cold storage lockers.
- 462 6. Agricultural and horticultural activities (including plant nurseries). Florist
463 shops are permitted.
- 464 **7. Marijuana and marijuana-infused products retail sales, processing or**
465 **production.**
- 466 **8. Medical marijuana collective gardens.**

468 **Section 10.** Section 21.56.100 of the Lynnwood Municipal Code is amended to read as follows:
469

470 **21.56.100 Land Use**

- 471 A. Permitted Uses. As stated by the regulations for the underlying zones.
- 472 B. Conditional Uses. As stated by the regulations for the underlying zone. Except
473 that where the underlying zone allows the following uses, these uses should be allowed
474 only with approval of a conditional use permit.
 - 475 1. Drive-through or drive-up windows or any other facility that provides
476 service to customers in cars.
 - 477 2. Handball courts, racquet clubs and indoor and outdoor tennis
478 courts(except that these uses are permitted as accessory uses as part of
479 private recreation facilities at multiple-family residential developments).
 - 480 3. Convenience stores.
 - 481 4. Park-and-ride lots operated by a public agency.
 - 482 5. The repair, improvement or expansion of gas stations existing as of the
483 date of the ordinance codified in this chapter.

- 484 C. Prohibited Uses. The following uses shall be prohibited in this overlay zone:
 485 1. Automotive uses (see Table 21.46.01), except as noted under subsection
 486 (A) and (B) of this section.
 487 2. Indoor amusement enterprises and amusement centers.
 488 3. Dry cleaning and laundry plants.
 489 4. Appliance stores, furniture stores and carpet stores.
 490 5. Cold storage lockers.
 491 6. Radio or television stations.
 492 **7. Marijuana and marijuana-infused products retail sales, processing or**
 493 **production.**
 494 **8. Medical marijuana collective gardens.**
 495

496 **Section 11.** Section 21.57.400 of the Lynnwood Municipal Code is amended to read as follows:
 497

498 **21.57.400 Land uses.**

499 A. Principal Uses Permitted Outright

- 500 1. College and university buildings, support services and college
 501 accessory facilities.
 502 2. Library.
 503 3. Public transit facilities.
 504 4. Conference or community center (college/community meetings
 505 and activities).
 506 5. Tot lot, greenway, vest pocket park, bikeway and other park/open
 507 space linkages.
 508 6. Retail store or service business under 4,000 square feet GFA,
 509 including, but not limited to:
 510 a. Convenience, drug or variety store;
 511 b. Books, magazines, stationery and school supplies;
 512 c. Child day-care center (fewer than 13 children)
 513 d. Art gallery, art or photo studio, film/photo processing;
 514 e. Art supplies store or frame shop;
 515 f. Professional services (engineering, legal, medical, financial
 516 and similar);
 517 g. Business services (bookkeeping, taxes, accounting
 518 management, etc.);
 519 h. Computer repair, maintenance and training, and related
 520 technical services;
 521 i. Personal services (grooming, photo processing, counseling,
 522 tutoring, etc.
 523 j. Laundry self-service and pick-up station;
 524 k. Shoe repair, tailoring, locksmith and similar personal
 525 services;
 526 7. Movie theater (single-screen at neighborhood scale).
 527 8. Medical offices or clinic (limited services to neighborhood and/or
 528 college).

- 529 9. Food and beverage service businesses under 2,000 square feet
530 GFA, including:
531 a. Donut shop, bakery or similar specialty food outlet
532 b. Café, coffee shop or restaurant;
533 c. Soda fountain, ice cream parlor, candy store;
534 d. Delicatessen or other specialty food store;
535 e. Tavern, brew pub or nightclub.
536 10. Multiple-family dwellings:
537 a. Maximum density: 20 units per net acre;
538 b. Minimum density: 12 units per net acre;
539 c. Density may be less than minimum if residential units are
540 combined with other uses in same building or on same lot.
541 11. Accessory parking lots and structures. Park-n-ride and park-n-pool
542 facilities are not permitted. Student/faculty parking shall be
543 located west of 68th Avenue.
544 12. Electric vehicle charging station, Level 1, Level 2 and Level 3, if
545 accessory to a permitted use or conditionally permitted use.
546 B. Principal Uses Allowed by Conditional Use Permit
547 1. Tavern, brew pub, club or restaurant that serves alcohol – when
548 within or adjacent to a structure that also contains residences or
549 child care facilities.
550 2. Indoor amusements such as arcades, bowling, pool card rooms, etc.
551 3. Athletic club or health spa (indoor facilities).
552 4. Performing arts facilities.
553 5. Child-day-care center (13 or more children) per LMC
554 21.42.110(E);
555 6. Boarding house, dormitory or other group residential facilities
556 suitable for students
557 7. Inn, hotel, or similar transient lodgings (20 accommodations or
558 less).
559 8. Battery exchange station (electric vehicle), and only if accessory to
560 a permitted or conditionally approved use.
561 C. Allowed Accessory Uses. Accessory uses are permitted per LMC
562 21.58.300, including
563 1. Child care – when serving the patrons or employees of a principal
564 use.
565 2. Commercial food services – in public buildings.
566 3. Food Vendors – in outdoor public spaces, subject to city permits.
567 **D. Prohibited Uses**
568 **1. Marijuana and marijuana-infused products retail sales,**
569 **processing or production.**
570 **2. Medical marijuana collective gardens.**
571

572 **Section 12.** Section 21.58.300 of the Lynnwood Municipal Code is amended to read as follows:
573

574 **21.58.300 Land Use**

575 A. Land uses shall be permitted as specified in the provisions of the underlying zones
576 within the college district, unless specifically prohibited, restricted or modified through
577 the provisions of this overlay zone or the Citywide Design Guidelines.

578 B. Principal and Conditional Uses. The provisions of the underlying zones shall
579 determine the allowed uses and how they are permitted, except that the following uses are
580 prohibited unless their sites have frontage on and access to either 196th Street or Highway
581 99:

582 1. Gas stations, car washes, auto parts stores, auto repair and maintenance
583 and similar auto related uses that are typically highway-oriented have a service area that
584 extends well beyond the college district, and that would bring unnecessary commercial
585 traffic into the neighborhood

586 C. Accessory Uses. Uses and structures that meet the city zoning code’s definition
587 of “accessory” shall be permitted within the zones of the college district, except that
588 accessory uses may not be added to existing nonconforming uses.

589 **D. Prohibited Uses. The following uses are prohibited in the underlying zones**
590 **within the college district**

591 **1. Marijuana and marijuana-infused products retail sales, processing or**
592 **production.**

593
594

595 **Section 13.** Section 21.60.300 of the Lynnwood Municipal Code is amended to read as follows:

596

597 **21.60.300 Use limitations.**

598 All uses shall be allowed in the city center zones unless specifically prohibited
599 below:

600 A. Prohibited in all city center zones

- 601 1. Adult establishments;
602 2. Billboards.;
603 3. Industrial uses (excluding management, research and development,
604 and sales operations).
605 4. Outdoor storage or display of materials and equipment (except
606 during construction) except as provided for in subsection (A)(10)
607 of this section.
608 5. Auto-oriented uses, including:
609 a. Vehicle washing;
610 b. Drive-throughs, including drive-up windows and drive-up
611 kiosks;
612 c. Vehicle repair.
613 d. Battery exchange station (electric vehicles);
614 e. Battery charging station (electric vehicle), Level 1, Level 2
615 or Level 3 (unless contained within an enclosed parking
616 structure or attached to the exterior of a building containing
617 a principal use);
618 f. Gasoline service stations;
619 g. Rental car agencies with outdoor fleet;
620 h. Outdoor sales of boats, vehicles, or equipment;

- 621 6. Sewage treatment plants;
622 7. Work release facilities;
623 8. Wrecking yards;
624 9. Secure community transition facilities;
625 10. Uses not contained within a building except:
626 a. Accessory outdoor dining;
627 b. Accessory outdoor display of merchandise up to a
628 maximum of 200 square feet and where the display only
629 occurs during business hours;
630 c. Temporary special events;
631 d. Accessory outdoor recreation areas, in an amount not
632 greater than the gross floor area of the principal use it
633 serves, not to exceed half an acre;
634 11. Self-service storage facilities (also known as mini-storage)
635 consisting of more than 20 percent of the building's total gross
636 floor area;
637 12. **Marijuana and marijuana-infused products retail sales,**
638 **processing or production.**
639 13. **Medical marijuana collective gardens.**
640 **14.** Any other uses similar to those listed above or any other use
641 determined by the community development director to be
642 inconsistent with the intent of the city center zones as described in
643 this chapter and the city center subarea plan. Appeals of the
644 community development director's decision shall be processed as a
645 Process II application (LMC 1.35.200).
646 B. Additionally, prohibited in the portion of the city center – core zone (CC-
647 C) that is north of 194th ST. SW:
648 1. Multiple-family residential
649 C. Ground floor principal uses in all city center zones shall be occupiable
650 space.
651 1. Exception. Parking may occupy the ground floor of a building;
652 provided, that the parking does not occupy ground floor space
653 facing a street frontage. In such instances, that portion of the
654 building facing the street shall consist of occupiable space.
655 D. For buildings that directly front the Promenade Street, no less than 40
656 percent of the lineal frontage of any building shall be street level retail
657 uses.
658

659 **Section 14.** Section 21.62.210 of the Lynnwood Municipal Code is amended to read as follows:
660

661 **21.62.210 Prohibited uses.**

662 Uses not listed above as permitted outright or allowed by conditional use permit,
663 or allowed as an accessory use to a permitted primary use, are prohibited in this zone.

664 Notwithstanding any provision above, the uses listed below are specifically prohibited:

- 665 A. Drive-up of drive-through service and/or window that does not meet the
666 requirements of LMC 21.62.200(A)(10).

- 667 B. Auto-oriented commercial uses including, but not limited to:
- 668 1. Gas stations;
- 669 2. Auto-repair, auto service shops, or the like;
- 670 3. Auto wrecking, recycling businesses and/or yards;
- 671 4. Car washes; and
- 672 5. New auto dealerships (new and/or used vehicles), except as
- 673 provided in LMC 21.62.200(A)(9);
- 674 C. Adult establishments and adult retail uses.
- 675 D. Industrial uses.
- 676 E. Warehouses, mini-warehouses, self-storage, mini-storage and the like.
- 677 F. Park-n-ride and park-n-pool lots or facilities.
- 678 G. Freestanding wireless communications towers and support structures
- 679 (attached wireless facilities are permitted; see LMC 21.62.200).
- 680 **H. Marijuana and marijuana-infused products retail sales, processing or**
- 681 **production.**
- 682 **I. Medical marijuana collective gardens.**
- 683

684 **Section 15.** A new section 21.71.180 is added to the Lynnwood Municipal Code to read as
 685 follows:

686
 687 **21.71.180 Uses prohibited in the Mobile Home Park zone**

- 688 **A. Retail sales, production and processing of marijuana and/or marijuana-infused**
- 689 **products.**
- 690 **B. Medical marijuana collective gardens.**
- 691

692 **Section 16 Repealer.** Ordinances No. 2998, 2999, 3039, 3040, 3045, 3061, 3062, 3072, 3095,
 693 3096 and 3106 are hereby repealed.

694
 695 **Section 17.** If any section, sentence, clause or phrase of this ordinance should be held to be
 696 invalid or unconstitutional by a court of competent jurisdiction, such invalidity or
 697 unconstitutionality shall not affect the validity or constitutionality of any other section,
 698 sentence, clause or phrase of this ordinance.

699
 700 **Section 18.** This Ordinance shall take effect and be in full force and effect immediately upon
 701 passage, as set forth herein.

702
 703 PASSED BY THE CITY COUNCIL, the ___ day of ___, 2015.

704 APPROVED:

705 _____
 706 Nicola Smith, Mayor

707 ATTEST/AUTHENTICATED:

708 _____

709 APPROVED AS TO FORM:

710 _____

711 Rosemary Larson

712

713 On the day of , 2015, the City Council of the City of Lynnwood, Washington, passed
714 Ordinance No.__. A summary of the content of said ordinance, consisting of the title,
715 provides as follows:

716

717 AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, RELATING TO
718 RECREATIONAL MARIJUANA PRODUCTION, PROCESSING, AND RETAIL SALES
719 PURSUANT TO INITIATIVE 502, AND TO MEDICAL MARIJUANA COLLECTIVE
720 GARDENS, AMENDING CHAPTER 21.02 LMC; ADDING NEW SECTIONS 21.42.103,
721 21.43.103, 21.44.103, 21.46.103, 21.50.103, 21.52.103, AND 21.71.180 TO THE
722 LYNNWOOD MUNICIPAL CODE, AMENDING SECTIONS 21.48.100, 21.54.100,
723 21.56.100, 21.57.400, 21.58.300, 21.60.300, AND 21.62.210 OF THE LYNNWOOD
724 MUNICIPAL CODE, REPEALING ORDINANCE NO, 2998, 2999, 3039, 3040, 3045,
725 3061, 3062, 3072, 3095, 3096 AND 3106; AND PROVIDING FOR SEVERABILITY, AN
726 EFFECTIVE DATE AND SUMMARY PUBLICATION.

727

728 The full text of this Ordinance will be mailed upon request.

729

730 DATED this_____ day of , 2015.

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Finance Director

EXHIBIT A

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1. There has been an increase in drug-related referrals for high school students testing positive for marijuana following de facto legalization in Colorado and the expansion of accessible retail marijuana storefronts/dispensaries and the accompanying growth in the marijuana market. During 2007-2009, an average of 5.6 students tested positive for marijuana. During 2010-2012, the average number of students who tested positive for marijuana increased to 17.3 students per year. In 2007, tests positive for marijuana made up 33 percent of the total drug screenings; by 2012, that number increased to 57 percent. A member of the Colorado Taskforce charged to regulate marijuana who also works for a drug testing company commented to the press that "A typical kid (is) between 50 and 100 nanograms. Now we're seeing these up in the 500, 700, 800, climbing." (Rocky Mountain HIDTA. (August, 2013). *The Legalization of Marijuana in Colorado: The Impact, Preliminary Report* (volume 1): See Conspire! Drug Testing Results and "Drug Testing Sees Spoke in Children Using Marijuana" found at <http://denver.cbslocal.com/2013/03/06/drug-testing-company-sees-spike-inchildren-using-marijuana/>).
2. In Colorado during the expansion period for marijuana storefronts/dispensaries, though traffic fatalities fell 16 percent between 2006 and 2011 (consistent with national trends), fatalities involving drivers testing positive for marijuana rose 112 percent. (Colorado Department of Transportation Drugged Driving Statistics 2006-2011, Retrieved <http://coloradodot.info/programs/alcohol-and-impaired-driving/drugged-driving/drugged-driving-statistics.html>).

EXHIBIT B

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1. Scientists from the American Medical Association, American Academy of Pediatrics, American Psychological Association, and American Society of Addiction Medicine state that marijuana use is harmful for young people. (American Medical Association. (2009). *Report 3 on the Council of Science and Public Health: Use of Cannabis for Medicinal Purposes*; Joffe, E. & Yancy, W.S. (2004). Legalization of Marijuana: Potential impact on youth. *Pediatrics: Official Journal of the American Academy of Pediatrics*. 113(6); American Psychological Association. (2009). *Position Statement on Adolescent Substance Abuse*; California Society of Addiction Medicine. (2009). *Impact of Marijuana on Children and Adolescents: American Society of Addiction Medicine Statement*. Retrieved here: <http://www.asa.org/adovocacy/find-a-policy-statement/view-policy-statement/public-policy-statements/2012/07/03/state-level-proposals-to-legalizemarijuana>);
2. According to the National Institutes of Health, one out of every six adolescents who use marijuana will become addicted. (Anthony, J.C., Warner, L.A., Kessler, R.C. (1994). *Comparative epidemiology of dependence on tobacco, alcohol, controlled substances, and inhalants: Basic findings from the National Comorbidity Survey. *Experiential and Clinical Psychopharmacology*. 2);*
3. There are approximately 400,000 emergency room admissions for marijuana every year – related to acute panic attacks and psychotic episodes. (Substance Abuse and Mental Health Services Administration, Center for Behavioral Health Statistics and Quality. (2011). Drug abuse warning network. 2008.: National estimates of drug-related emergency department visits. HHS Publication No. SMA. 11-4618. Rockville, MD);
4. Marijuana is the most cited drug for teens entering treatment. (Substance Abuse and Mental Health Services Administration. Center for Behavioral Health Statistics and Quality. Treatment Episode Data Set (TEDS): 2000-2010. National Admissions to Substance Abuse Treatment Services. DASIS Series S-61. HHS Publication No. (SMA) 12-4701. Rockville, MD>: Substance Abuse and Mental Health Services Administration, (2012);
5. Marijuana use, especially among young people, is significantly associated with reduction in IQ. (See Meier, M.H.; Caspi, A.; Ambler, A.; Harrington, H.; Houts, R.; Keefe, R.S.E.; McDonald, K.; Ward, A.; Poulton, R.; and Moffitt, T. Persistent cannabis users show neuropsychological decline from childhood to midlife. *Proceedings of the National Academy of Sciences* 109(40): E2657-E2664. 2012. Also Moffitt, T.E.; Meier, M.H.; Caspi, A.; and Poulton, R. Reply to Rogeberg and Daly: No evidence that socioeconomic status or personality differences confound the association between cannabis use and IQ decline. *Proceedings of the National Academy of Sciences* 110(11): E980-982. 2013);

- 806 6. Marijuana use, especially among young people, is significantly associated with mental
807 illness. (See for example: Andreasson, S., et al (1987). Cannabis and Schizophrenia: A
808 longitudinal study of Swedish conscripts. *Lancet* 2 (8574)); Moore, T.H., et al (2007);
809 Cannabis use and risk of psychotic or affective mental health outcomes; a systematic
810 review. *Lancet*. 370(9584); Large, M., et al. (2011). Cannabis Use and Earlier Onset of
811 Psychosis: A Systematic Meta-analysis. *Archives of General Psychiatry*. 68(6); Harley,
812 M., et. al. (2010). Cannabis use and childhood trauma interact additively to increase
813 risk of psychotic symptoms in adolescences. *Psychological Medicine*. 40(10); Lynch,
814 M.J., et. al. (2012). The Cannabis-Psychosis Link. *Psychiatric Times*);
815
- 816 7. Marijuana use, especially among young people, is significantly associated with poor
817 learning outcomes. (Yucel, M., et. al. (2008). Regional brain abnormalities associated
818 with long-term heavy cannabis use. *Archives of General Psychiatry*, 65(6));
819
- 820 8. Marijuana use, especially among young people , is significantly associated with lung
821 damage. See for example: American Lung Association. (2012, November 27). Health
822 Hazards of Smoking Marijuana. Retrived from [http://www.lung.org/stop-](http://www.lung.org/stop-smoking/about-smoking/health-effects/marijuanasmoke.html)
823 [smoking/about-smoking/health-effects/marijuanasmoke.html](http://www.lung.org/stop-smoking/about-smoking/health-effects/marijuanasmoke.html); Tashkin, D.P., et., al.
824 (2002). Respiratory and immunologic consequences of smoking marijuana. *Journal of*
825 *Clinical Pharmacology*. 4(11); Moore, B.A., et. al. (2005). Respiratory effects of
826 marijuana and tobacco use in a U.S. sample. *Journal of General Internal Medicine*, 20(1);
827 Tetrault, J.M., et. al. (2007). Effects of marijuana smoking on pulmonary structure,
828 function and symptoms. *Thorax*. 62(12); Tan, W.C., et. al. (2009). Marijuana and
829 chronic obstructive lung disease;
830
- 831 9. Marijuana use, especially young people, is significantly associated with addiction, (See
832 for example: Anthony, J.C., Warner, L.A., Kessler, R.C. (1994). Comparative
833 epidemiology of dependence on tobacco, alcohol, controlled substances, and inhalants:
834 Basic findings from the National Comorbidity Survey. *Experiential and Clinical*
835 *Psychopharmacology*. 2; Budney, A.J., et. al. (2008). Comparison of cannabis and
836 tobacco withdrawal: Severity and contributions to relapse. *Journal of Substance Abuse*
837 *Treatment*. 35(4); Tanda, G., et. al. (2003). Cannabinoids: Reward, dependence, and
838 underlying neurochemical mechanisms – A recent preclinical data. *Psychopramacology*,
839 169(2));
840
- 841 10. Drivers who test positive for marijuana or self – report using marijuana more than
842 twice as likely as other drivers to be involved in motor vehicle crashes. (Mu-Chen, L.I.,
843 Joanne E. Brady, Charles J. DiMaggio, Arielle R. Lusardi, Keane Y. Tzong, and Guohua Li.
844 (2011). “Marijuana Use and Motor Vehicle Crashes.” *Epidemiologic Reviews*).
845
- 846 11. Creating barriers to the use of marijuana is an important tool for promoting public
847 health. Due to federal, state and local efforts to control the distribution of marijuana, its
848 use is lower than the use of legal drugs. About 52 percent of Americans regularly drink.
849 27 percent use tobacco products, and yet only 8 percent currently use marijuana.
850 Substance Abuse and Mental Health Services Administration. Results from the 2012

851 National Survey on Drug Use and Health: Summary of National Findings, NSDUH Series
852 H-46. HHS Publication No. (SMA) 13-4795. Rockville, MD: Substance Abuse and
853 Mental Health Services Administration. (2013).
854

**Zoning Code Corrections – Omnibus
Amendments**

Agenda Item: D.2

Staff Report

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

Staff Contact: Corbitt Loch, Community Development

Summary

The purpose of this agenda item is to provide a public hearing on the proposed draft legislation that corrects several existing errors/inconsistencies within the Zoning Code (Title 21 LMC).

At a future date, the City Council will conduct a public hearing on the draft amendments, and thereafter take action of the proposal.

Action

Receive public input on the proposed text amendments. Deliberation by the Commission will follow the public hearing.

Background

The Lynnwood Zoning Code was adopted circa 1960 (Ordinance 24), and has been amended on an ongoing basis for 55 years. During that time, some inadvertent errors, inconsistencies, and ambiguous provisions have been codified.

Errors can occur within zoning regulations for reasons such as:

- A. Land use regulations are complex and frequently “overlap” regulations within other sections/chapters.
- B. Typically, Zoning Code amendments are prepared in response to a new and immediate community need. Such issue-specific amendments may inadvertently alter or conflict with regulations adopted during a different time for a broader purpose.
- C. Zoning Code amendments made over spans of decades are prepared by many different authors and are adopted by different City Councils. The resulting variation in sentence structure, word choice, citation, and grammar can negatively impact clarity.
- D. Occasionally, last-minute changes to draft regulations can elude thorough review and evaluation.
- E. As codes are amended over time, references and citations can become inaccurate.

- F. Occasionally, human error can escape detection by multiple readers.
- G. Changes in State and Federal law (statutory and case law) can invalidate local zoning regulations.
- H. Societal changes can make certain zoning regulations obsolete.

The attached Summary of Ordinance provides an overview of the contents of the lengthy, omnibus ordinance. These changes are considered to be non-substantive with regard to the regulation of land. While the attached amendments do not create new regulations, the amendment process specified by the Municipal Code does not offer an abbreviated procedure for changes to Title 21 LMC. For efficiency, the attached ordinance corrects several such provisions.

Previous Planning Commission Action

This draft ordinance was presented to the Planning Commission on March 26, 2015.

Funding

NA.

Adm. Recommendation

- 1. Receive public input on the draft amendments.
- 2. Upon closure of the public testimony portion of the hearing, begin deliberation.
- 3. At the conclusion of the Commission’s deliberation, either:
 - a. Recommend approval of the draft amendments as written; or
 - b. Recommend approval of the draft amendments--as amended by the Commission; or
 - c. Direct staff to prepare revisions for the Commission’s review at a future meeting. If the changes desired are substantive, it would be appropriate to continue the public hearing to allow public comment on those forthcoming edits.

Suggested motions:

- 1. “I move that the Planning Commission recommend approval the draft ordinance correcting multiple provisions within the Zoning Code.”

Attachments

- 1. Summary of ordinance
- 2. Draft ordinance

Omnibus Zoning Code Correction
Summary of Draft Ordinance

Ord. Section	Section Begins on Ord. Page	Amended Language Begins on Ord. Page	Description	LMC Reference
1	2	--	<u>Findings</u> . Adoption of findings as basis for amendment of Zoning Code. Correction	--
2	2	2	<u>Nonconforming Uses</u> . Correction of reference to decision-making entity.	LMC 21.12.400D
3	3	11	<u>Commercial Signs</u> . Repeal of sign regulations for “East 196 th PCD Overlay”, which was repealed by Ord. 2441 (see LMC 21.46.910)	LMC 21.16.310.L
4	13	13	<u>PDR Decision</u> . Repeals redundant language regarding notice of decisions.	LMC 21.25.145
5	14	14	<u>Residential Uses in Commercial Zones</u> . Within Table 21.46.10, adds “+” footnote to “Multiple-Family Housing Units (on parcels designated as Highway 99 Corridor on the Future Land Use Map”. “+” references LMC 21.46.110-119.	LMC 21.46.100
6	15	19	<u>Limitations on Residential Uses</u> . Repeal of regulations already null and void due to expiration.	LMC 21.46.116.E.3
7	19	19	<u>Limitations on Residential Uses</u> . Correction of reference to PCD zone rather than PRC zone.	LMC 21.48.116.B
		21	<u>Limitations on Residential Uses</u> . Repeal of regulations already null and void due to expiration.	LMC 21.48.116.D.3
8	21	21	<u>Land Uses in Industrial Zones</u> . Elimination of conflicting regulations for sports facilities. Currently, sport facilities are listed as both a permitted use and as a conditional use. Staff proposes that such land uses be permitted.	LMC 21.50.100
9	24	24	<u>Development Standards in Industrial Zones</u> . Correction of reference to setback requirements and miscellaneous edits for clarity.	LMC 21.50.210
10	27	--	Severability cause.	
11	27	--	Effective date.	

Additional, similar corrections may be forthcoming.

May 21, 2015

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Note: Amendments shown by ((~~strikeout~~)), underline and 

CITY OF LYNNWOOD

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, CORRECTING NON-SUBSTANTIVE, MANIFEST ERRORS AND AMENDING PROCEDURAL PROVISIONS WITHIN TITLE 21 OF THE LYNNWOOD MUNICIPAL CODE (LMC), REPEALING EXPIRED PROVISIONS OF LMC 21.16.310, LMC 21.46.116 AND LMC 21.48.116, AMENDING LMC 1.35.LMC 21.12.400D, LMC 21.25.145, LMC 21.46.116, LMC 21.48.116, LMC 21.50.100, AND LMC 21.50.210 AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

WHEREAS, under Chapters 35A.11 and 35A.63 RCW, the City Council of the City of Lynnwood has the authority to adopt ordinances relating to the use of real property located within the City; and

WHEREAS, from time to time, it is appropriate to amend the City's land use and development regulations in order to correct inadvertent errors, omissions, inconsistencies, and to remove ambiguity that may impede efficient and effective application of legislation enacted by Ordinance by the City Council; and

WHEREAS, upon review of the provisions within this Ordinance, the City of Lynnwood SEPA Responsible Official on the 1st day of May, 2015, determined that the provisions of the Ordinance are procedural in nature and are categorically exempt from SEPA threshold determination and EIS requirements pursuant to chapter 197-11 WAC; and

WHEREAS, on the 1st day of May, 2015, notice of the proposed code amendment was sent to the Washington State Department of Commerce in accordance with RCW 36.70A.106; and

WHEREAS, on the 28th day of May, 2015, the Lynnwood Planning Commission held a public hearing on proposed amendments to the Lynnwood Municipal Code provided by this ordinance, and all persons wishing to be heard were heard; and

WHEREAS, following the public testimony portion of the public hearing, the Planning Commission deliberated on the draft legislation and by regular motion voted to

48 recommend that the Lynnwood City Council adopt the amendments to the Lynnwood
49 Municipal Code as provided herein; and

51 WHEREAS, the City Council finds the provisions of this Ordinance to be in the
52 best interest of the health, safety and welfare of the community; and

53
54 WHEREAS, on the ___th day of _____, 2015, the Lynnwood City Council held
55 a public hearing on proposed amendments to the Lynnwood Municipal Code provided
56 by this ordinance, and all persons wishing to be heard were heard; now, therefore:

57
58 THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, DO
59 ORDAIN AS FOLLOWS:

60
61 **Section 1. Findings.** Upon consideration of the provisions of this Ordinance, the City
62 Council finds that the amendments contained herein are: a) consistent with the
63 comprehensive plan; and b) substantially related to the public health, safety, or welfare;
64 and c) not contrary to the best interest of the citizens and property owners of the city of
65 Lynnwood.

66
67 **Section 2. Amendment.** LMC 21.12.400D is hereby amended to read as follows:

68
69 D. Alternative Method for Bringing Nonconforming Structures or Sites into
70 Compliance.

71
72 1. Petition. As a means of bringing a nonconforming site into general
73 compliance with the intent of the zoning ordinance, an applicant may petition under the
74 conditional use procedures to permit an alternate parking and landscaping plan and
75 such permit, if approved, would specify the time period for compliance. Such petition
76 shall be accompanied by a site plan of the entire site, designating the location and size
77 of existing buildings, parking stalls, and landscaped areas. The applicant shall provide
78 documentation of the uses and their respective parking capacity demands. In addition,
79 the applicant shall submit a proposed landscape and parking plan along with a
80 proposed completion schedule.

81
82 2. Decision Criteria. In considering the approval, denial or modification of such
83 alternate plan and compliance schedule, the ~~((planning commission and/or city~~
84 ~~council))~~ hearing examiner shall consider all factors relevant to the public interest
85 including, but not limited to the following:

86
87 a. Whether or not the plan will adversely impact surrounding parking facilities
88 or traffic flow or traffic circulation on nearby streets.

89
90 b. Whether or not the plan provides a reasonable number of available
91 parking stalls without unreasonably reducing the required landscaping areas within
92 parking lots on the site. Such a plan may propose compact stalls or time-sharing
93 cooperative arrangements as a means of maximizing parking. In time-sharing



94 arrangements, the applicant shall document the off-setting parking demand peaks.
95 Street frontage landscaping shall not be relaxed.

96
97 c. The plan shall specify a reasonable amount of time to make the necessary
98 improvements. However, such time shall not exceed two years from the date of
99 approval of such petition.

100
101 d. A penalty bond equal to the amount of work to be done in the parking lot or
102 completion of the parking lot requirements may be required prior to finalization of any
103 building permit, occupancy permit or other authority to proceed and shall be released
104 only after the work has been completed.

105
106 **Section 3. Amendment.** LMC 21.16.310 is hereby amended to read as follows:

107
108 **21.16.310 Commercial signs.**

109 This section concerns business signs, and applies in all commercial zones except
110 the planned regional shopping center zone. Only those signs which do not conflict with
111 regulations contained in this and other Lynnwood Municipal Code titles, and which are
112 consistent with the definition of a business sign in LMC 21.02.672, are permitted subject
113 to the following standards. The word "street," as it appears in this section, shall not
114 include I-5, I-405, SR-525 or the Snohomish County PUD right-of-way.

115
116 A. Freestanding Signs.

117 1. Pole Signs.

118 a. Area. The total allowable sign area for pole signs on individual and
119 multiple business sites that qualify for one pole sign shall be 75 square feet plus one-
120 half foot for each lineal foot of street frontage over 250 feet. Any one pole sign shall be
121 no more than 150 square feet in area per side.

122
123 On business sites which qualify for more than one pole or monument sign, per
124 subsection (B) of this section, the total allowable sign area per street frontage shall be
125 calculated at 75 square feet plus one-half square foot for each lineal foot over 250 feet.
126 No pole sign face shall exceed 155 square feet in area. On business sites with both
127 pole and monument signs, the total area of such signs oriented toward a particular
128 street shall not exceed the maximum sign area based on that street's linear frontage,
129 except on multiple business sites and sites with pole signs at least 50 feet from the
130 street. See subsection (A)(2) of this section for calculation of monument sign area. The
131 allowable sign area shall be computed separately for each street frontage, and only the
132 sign area derived from the street frontage along a street may be oriented toward that
133 street. The allowable sign area for a pole sign located at a corner shall be derived from
134 the one street frontage it is oriented toward. Only one face of a double-faced sign shall
135 be considered in computing its area, providing both sides pertain to the same business.

136
137 i. Additional Area for Multiple Business Sites. Multiple business sites shall
138 be allowed an additional 20 square feet of freestanding sign area for each business in
139 excess of one up to a total of 80 square feet of additional pole sign area per multiple

140 business site. Such additional sign area shall not be used to increase the sign area of
141 any business beyond that amount which would be allowed if located in an individual
142 business site of the same size as the multiple business site. Sign structures containing
143 this additional sign area shall be constructed in such a way to be easily modified to
144 reflect changes in the number of tenants on the site. Any multiple business site which is
145 at least 150,000 square feet in lot area and contains at least 10 separate businesses
146 shall be allowed one additional freestanding sign for identification of the site generally.
147 Such signs shall not exceed 160 square feet in area.

148
149 ii. Additional Area for Pole Signs at Least 50 Feet from a Street. For all
150 pole signs located at least 50 feet from a street, sign area may be increased five
151 percent for each 10 feet the sign is from the street, up to a maximum of 200 square feet
152 of total sign area per sign.

153
154 b. Number of Pole Signs. Along each public street abutting an individual or
155 multiple business site, that site may have one permanently installed pole sign per the
156 following schedule. However, on corner sites where two pole signs would be spaced
157 less than 250 feet apart as measured in a straight line, only one sign shall be allowed.

158

Street Frontage per Street Pole	Signs Allowed
1 – 300 feet	1
301 – 600 feet	2
601 – 900 feet	3
901+ feet	4

159
160 On sites with less than 300 lineal feet of street frontage on one street or corner sites
161 where two signs would be less than 250 feet apart as measured in a straight line,
162 additional pole signs may be allowed by conditional use permit; provided, that such
163 signs are in keeping with the intent of this title.

164
165 Whenever a conditional use permit for additional pole signs is considered, the
166 hearing examiner may require that the height, area, and/or specific dimensions of signs
167 be reduced and/or the setback from property lines be increased.

168
169 Sites which qualify for additional pole signs may substitute ground signs for those
170 additional pole signs.

171
172 c. Location, Height and Design Criteria for Pole Signs.

173
174 i. Location. The setback for pole signs along public streets shall be as
175 provided below:

176
177 (A) Pole signs shall be located more than 35 feet from the street right-
178 of-way.

179
180 (B) Pole signs shall be located at least 100 feet from adjacent I-5, I-
181 405, and SR-525 boundaries. Pole signs shall be located at least 100 feet from the
182 Snohomish County PUD right-of-way where it is adjacent to I-5. This requirement does
183 not apply to signs located adjacent to freeway on-ramps and off-ramps. Pole signs shall
184 be located at least 10 feet from any side or rear property line and 25 feet from any
185 property line adjacent to a residential zone.

186
187 These limitations do not apply to nonilluminated private traffic direction signs
188 directing traffic movement within a business site, not exceeding four square feet in area
189 for each sign, or traffic directions painted on the surface of a parking lot or driveway.

190
191 ii. Height. Pole signs shall comply with the height regulation for monument
192 signs depending on their distance from the street up to a maximum of 25 feet in height
193 above the average ground level at the base of the sign for all commercial zones. Pole
194 signs may be 30 feet high if located within 500 feet of I-5, I-405 or SR-525 boundaries
195 and at least 100 feet from a public street. However, pole signs shall not be higher than
196 20 feet on property separated from the above freeways by a public street. The height of
197 signs may be further limited by the maximum height for buildings specified in the
198 respective zone. When signs are located on sites within 100 feet of residential-zoned
199 property, illuminated sections of the sign shall not exceed 20 feet in height if visible from
200 those properties.

201
202 iii. Design Criteria. Pole signs shall meet the following design criteria and
203 criteria indicated on Figure 3 of this chapter:

204
205 (A) The sign exterior shall consist of materials and colors that
206 minimize reflection capabilities and are similar and complementary to those of the
207 primary buildings on the property where the sign is located. The sign and support or
208 base shall be constructed of materials that are easily maintained and maintain their
209 shape, color, texture and appearance over time.

210
211 (B) The design of the sign and base or support shall be similar and
212 complementary with the architecture of the primary buildings on the property where the
213 sign is located.

214
215 (C) The sign base shall be surrounded by a single landscape area that
216 is at least two feet wide between the sign base and raised curb that surrounds and
217 protects the landscape area. The landscape area shall include evergreen plant material
218 and may also include other materials, such as brick pavers or decorative planters.

219
220 2. Monument Signs.

221 a. Area. Maximum monument sign area shall be 35 square feet at the
222 minimum setback from the street right-of-way and an additional two square feet for each
223 one foot back from the minimum setback line measured perpendicular to the street, up
224 to a maximum of 75 square feet per side.

225
226 b. Number of Monument Signs. The total number of monument, ground and
227 pole signs on a business site shall not exceed the maximum number of pole signs
228 allowed by subsection (A)(1)(b) of this section.

229
230 c. Location, Height and Design Criteria for Monument Signs.

231
232 i. Location. The leading edge of monument signs shall be located at least
233 10 feet from the street right-of-way, at least 10 feet from any side property line and at
234 least 25 feet from any property line adjacent to a residential zone.

235
236 Monument signs shall be located at least 100 feet from adjacent I-5, I-405 and SR-
237 525 boundaries. Monument signs shall be located at least 100 feet from the Snohomish
238 County PUD right-of-way where it is adjacent to I-5. This requirement does not apply to
239 signs located adjacent to freeway on-ramps and off-ramps.

240
241 Monument signs shall not be located within a triangular area at street intersections
242 or street and driveway intersections formed by two points measuring 20 feet back from
243 the point where the two street right-of-way lines merge or a street right-of-way line and
244 edge of driveway merge and extending a line that connects these two points to
245 complete the triangle. (See Figure 4 of this chapter.)

246
247 ii. Height. Monument signs shall be no more than six and one-half feet
248 high at the minimum setback from the street right-of-way and one additional foot in
249 height for each one and one-half feet back in a perpendicular line from the street. The
250 maximum height for monument signs shall be 25 feet for all commercial zones.
251 Monument signs may be 30 feet high if located within 500 feet of I-5, I-405, SR-525
252 boundaries and at least 100 feet from a public street. However, monument signs shall
253 not be higher than 25 feet on property separated from the above freeways by a public
254 street. When signs are located on sites within 100 feet of residential-zoned property,
255 illuminated sections shall be no more than 20 feet in height if visible from those
256 properties.

257
258 iii. Design Criteria. Monument signs shall meet the following design
259 criteria and criteria shown on Figure 5 of this chapter:

260
261 (A) The sign shall be located so it does not interfere with the visibility
262 of drivers, pedestrians, bicyclists, riders or others at intersections, driveways, bike
263 lanes, crosswalks, or other places of ingress or egress.

264
265 (B) The sign exterior shall consist of materials and colors that
266 minimize reflection capabilities and are similar and complementary to those of the
267 primary buildings on the property where the sign is located. The sign and support or
268 base shall be constructed of materials that are easily maintained and maintain their
269 shape, color, texture and appearance over time.

271 (C) The design of the sign and base or support shall be similar and
272 complementary with the architecture of the primary buildings on the property where the
273 sign is located.

274
275 (D) The sign base shall be surrounded by a single landscape area that
276 is at least two feet wide between the sign base and raised curb that surrounds and
277 protects the landscape area. The landscape area shall include evergreen plant material
278 and may also include other materials, such as brick pavers or decorative planters.

279
280 3. Ground Signs. The total number of ground, monument and pole signs on a
281 business site shall not exceed the maximum number of pole signs allowed by
282 subsection (A)(1)(b) of this section. However, one additional ground sign may be
283 allowed to identify a business parking area that is not adjacent to the business site
284 where the business is located and one additional ground sign may be allowed to identify
285 an access driveway to a street not adjacent to the business site where the business is
286 located.

287
288 All ground signs shall be subject to the following criteria:

289
290 a. The sign is located to minimize interference with drivers' or others' visibility
291 in intersection or at place of ingress or egress;

292
293 b. The sign has no moving parts;

294
295 c. The sign consists of materials and colors which minimize reflection
296 capabilities;

297
298 d. The sign components are securely attached to the sign structure and not
299 temporary or removable;

300
301 e. The sign shall not be internally illuminated, except for an individual letter
302 sign or a sign with an opaque sign face background that only allows letters and/or
303 business logos or graphics to be visible at night. Indirect lighting, if used, shall be
304 uncolored, nonblinking, and directed away from traffic;

305
306 f. The sign shall have a solid base that is not less than three-quarters of the
307 width of the sign face;

308
309 g. The sign shall be no more than 25 square feet in area;

310
311 h. The sign shall be located at least five feet from the street right-of-way;

312
313 i. The sign shall be no higher than three and one-half feet above the adjacent
314 sidewalk or street curb;

315

316 j. The sign exterior shall consist of materials and colors that are similar and
317 complementary to those of the primary buildings on the business site. The sign and
318 base shall be constructed of materials that are easily maintained and maintain their
319 shape, color, texture and appearance over time; and

320
321 k. The sign may be permanently attached to retaining walls and fences;
322 however, such walls and fences shall be at least five feet from the street right-of-way.

323
324 Such signs may be located closer than five feet from the street right-of-way by
325 conditional use permit, if it is found necessary or desirable in the public interest to locate
326 the sign nearer to the right-of-way, and that it will not interfere with visibility as indicated
327 above.

328 B. Building Signs.

329 1. Wall Signs.

330
331 a. Area. The total allowable sign area for each business for signs attached to
332 a building frontage including mural signs shall be 60 square feet, or one square foot for
333 each lineal foot of building frontage, whichever is greater, up to a maximum of 200
334 square feet. However, wall signs that comply with the Sign Design – Creative/Artistic
335 Elements Guidelines of the Lynnwood Citywide Design Guidelines, as adopted by
336 reference in LMC 21.25.145(B)(3), may be allowed up to a 30 percent increase in wall
337 sign area. Businesses may have up to 10 square feet of sign area to place on a
338 directory sign on any facade of the building where they are located, except in no case
339 shall the maximum sign area exceed 15 percent of a building facade considered
340 building frontage. See Figure 2 of this chapter and LMC 21.02.358 to determine building
341 frontage.
342
343

344
345 On other building facades not considered frontage, the maximum sign area shall be
346 one-half square foot for each lineal foot of building facade or 100 square feet, whichever
347 is smaller. Wall signs on building facades that are oriented toward adjacent property
348 zoned residential shall not be illuminated.

349
350 The allowable sign area shall be computed separately for each building facade. Sign
351 area shall not be transferred from one facade to another. Only one face of a double-face
352 sign shall be considered in computing its area, providing both sides pertain to the same
353 business. For purposes of determining sign area, awning signs are part of the sign area
354 allowed for signs attached to buildings.

355
356 b. Height. Wall signs shall not extend higher than one foot above the wall to
357 which they are attached.

358
359 c. Transfer of Allowed Area from Freestanding Signs to Signs Attached to
360 Buildings. Freestanding sign area may be applied to signs attached to buildings;
361 provided, however, that such area be apportioned equally to all tenants and shall only

362 be transferred to a building frontage. A record of any such transfer must be filed with the
363 planning department. The maximum wall sign area per building facade with transfer
364 shall be 400 square feet or 10 percent of the building frontage area to which the sign is
365 attached, whichever is smaller.

366
367 2. Projecting, Marquee, and Nonrigid Awning Signs. Projecting signs shall not
368 extend above the wall to which they are attached. Marquee signs shall not extend
369 higher than the wall to which they are attached. Nonrigid awning signs shall not extend
370 higher than the wall to which they are attached.

371
372 Projecting and marquee signs and nonrigid awnings shall be at least eight feet
373 above any walkway and 16 feet above any area used by vehicular traffic. However,
374 nonrigid awnings with signs may be placed at the top of garage bay doors unless
375 contact by vehicular traffic is possible. Projecting signs on business sites shall not
376 extend into the public right-of-way or adjacent property. Marquee signs shall not block
377 windows or doorways. The area for projecting, marquee and nonrigid awning signs shall
378 come out of the sign area allocation for the building facade they are attached to.
379 Nonrigid awning signs shall have a maximum dimension of four feet from top to bottom.
380 The sign area for nonrigid awning signs shall be the entire area of any nonrigid awning
381 that projects less than three feet from a building. The sign area for all other nonrigid
382 awning signs shall be the rectangular area around letters and/or graphics displayed on
383 the nonrigid awning. (See Figure 1 of this chapter.) Projecting and marquee signs may
384 be illuminated; however, they shall not be illuminated if oriented toward adjacent
385 residential-zoned property.

386
387 3. Roof Signs. The planning director may approve the placement of one roof
388 sign per building if it is determined that such a sign is necessary because permitted wall
389 signs cannot be placed so as to be readable from the street closest to the building. Any
390 roof sign approved by the planning director may only be mounted on any building if it
391 complies with the building code or other city regulations. A roof sign shall not be higher
392 than 10 feet above the roof deck and shall be subject to the placement and design
393 criteria described on Figure 6 of this chapter. The area of a roof sign shall come out of
394 the sign area allocation for building facade closest to the sign.

395
396 When roof signs are located on sites which have street frontage within 100 feet of
397 residential-zoned property, illuminated sections shall not exceed 20 feet in height from
398 the ground if visible from those properties.

399
400 C. Incidental Signs. Incidental signs, each not more than four square feet in area
401 per side, do not require a sign permit and may be in excess of the allowable sign area
402 providing they are attached to a building below the roof line, or if placed in the ground,
403 are no more than three feet above grade, and at least five feet from the street right-of-
404 way. No more than four such signs per business shall be located on a business site.
405 Incidental signs less than three square feet in area shall not be counted as one of the
406 four allowable signs or as part of the allowable sign area.

408 D. Electronic Changing Message Signs. No sign shall have blinking or flashing
409 lights; provided, however, electronically changing message signs shall be allowed.
410 These signs shall not change displays or images at a rate less than one every five
411 seconds except for signs which provide alternate messages only as to times and
412 temperature, which may change at a rate of not less than one message every two
413 seconds. All such signs shall be equipped with a device which automatically dims the
414 intensity of the lights during hours of darkness.

415
416 E. Internal Information Signs. Signs intended to be seen by the public within a
417 business site, oriented away from the street and not readable from the public right-of-
418 way and adjacent property shall not be regulated as signs. Such signs shall include but
419 are not limited to internal directory signs, certain incidental signs and menu boards.

420
421 F. Portable Business Signs. Portable signs shall only be allowed within eight feet of
422 any building where a business is located. There is no limitation on the number of such
423 signs. However, these signs shall not be placed in the ground, on walkways, in parking
424 areas, drive aisles, or anywhere that might block visibility or create a safety hazard.

425
426 G. Special Event Signs. Signs for special events as defined by Chapter 5.30 LMC
427 shall conform to the provisions of that chapter. Signs for temporary activities or
428 occurrences not regulated as a special event shall conform to the provisions of this
429 chapter.

430
431 H. Searchlights. Searchlights shall only be permitted if they meet the following
432 criteria:

433
434 1. That the duration of time for display of the searchlight shall not be more than
435 10 days;

436
437 2. That no permit for display of a searchlight shall have been approved for the
438 same applicant during the six-month period prior to the most recent application;

439
440 3. That the searchlight be so located as to minimize interference of driver
441 visibility at intersections or at points of ingress and egress;

442
443 4. That the searchlight be located 35 or more feet from the right-of-way; and
444 directed away from traffic on nearby streets;

445
446 5. The intensity and color of light and the duration of its operation shall not
447 constitute a nuisance as defined in LMC 10.08.200; and

448
449 6. That a fee as shown in Chapter 3.104 LMC shall be paid in connection with
450 any such permit.

451
452 I. Real Estate Signs. Signs advertising the sale, lease or rental of commercially
453 zoned property on which the sign is located shall require a temporary sign permit. Such

454 signs shall not be permitted unless a property, building(s) and/or tenant space(s) is for
455 sale, lease or rent. Each such sign shall not exceed 24 square feet in area, and if
456 freestanding, shall be set back at least six feet from the street right-of-way. Such signs
457 shall not be placed where they can obstruct driver, bicyclist or pedestrian visibility.
458 There shall be no more than one such sign per street corner or one per street frontage,
459 whichever is less. Such signs shall be no more than six and one-half feet in height, shall
460 not be illuminated and shall be removed once the property and/or buildings being
461 advertised are sold, leased or rented. In addition, any such nonconforming sign shall
462 require a permit and be made conforming by October 9, 2000.

463
464 J. Construction Signs. Construction signs for commercially zoned property shall
465 comply with the regulations of LMC 21.16.280.

466
467 K. Signs in Restricted Business Zone. Signs shall comply with the following:

468
469 1. No roof signs shall be allowed;

470
471 2. No freestanding signs shall be allowed, except ground signs in accordance
472 with the regulations of this section; and

473
474 3. Building signs shall comply with the regulations of this section. All building
475 signs shall be noninternally illuminated, except for individual letter signs and signs with
476 opaque sign face backgrounds that only allow letters and/or business logos or graphics
477 to be visible at night. Signs on building facades oriented toward nearby residential
478 zones shall not be illuminated.

479
480 ~~L. Signs in the East 196th PCD Overlay.~~

481
482 ~~1. Signs.~~

483
484 ~~a. Objectives.~~

485
486 ~~i. Signs shall be of high quality. It is recognized that individual~~
487 ~~businesses must be properly identified, but it is also recognized that signs should be the~~
488 ~~minimum necessary to provide such identification. Excessively large signs are~~
489 ~~recognized as being inconsistent with the existing character of the area and will be~~
490 ~~discouraged. While freestanding signs of high quality may be allowed for area~~
491 ~~identification, emphasis shall be placed upon use of building face signs where they will~~
492 ~~function as effectively as a freestanding sign. Where possible, signs shall be~~
493 ~~coordinated in scale and materials with those currently used on adjacent sites within the~~
494 ~~district.~~

495
496 ~~b. Regulations. Signs shall be subject to the following:~~

497
498 ~~i. No more than one freestanding sign per business site per street~~
499 ~~frontage;~~



500
501 ii. ~~Sign area, location, height and design shall comply with the~~
502 ~~regulations of this section;~~

503
504 iii. ~~Signs shall comply with the illumination regulations of this chapter;~~

505
506 iv. ~~New pole or monument signs shall require a special use permit;~~
507 ~~however, new ground signs and building signs shall not require a special use permit;~~

508
509 v. ~~Modification of existing signs that are part of a previously approved~~
510 ~~special use permit shall be subject to the regulations of LMC 1.35.180.~~

511
512 M L. Sign Variances. Requests to relax standards of this section shall be processed
513 as variances and shall meet all the criteria for granting of variances, unless otherwise
514 provided for. In considering any application for a variance to relax the required setback
515 for pole or monument signs, the hearing examiner shall take into account the following
516 factors and all others in the public interest in determining whether special circumstances
517 exist which warrant a variance:

518
519 1. The extent to which vegetation and/or topography of the subject and/or
520 adjacent properties would obscure a pole sign at the required setback on the subject
521 property; provided, that removal of the obstructing vegetation and/or topography is
522 beyond the control of the owner of the subject property or contrary to city policies or
523 ordinances.

524
525 2. The size of the subject property as it relates to possible locations for the
526 proposed sign.

527
528 3. The extent to which nearby existing pole or monument signs located at less
529 than the required setback would obscure a pole sign at the required setback on the
530 subject property.

531
532 4. The extent to which visibility of the proposed sign might be enhanced by
533 mounting the sign lower or higher (but not exceeding the required height limit) than
534 nearby obstructions, rather than by reducing the required setback.

535
536 5. The width, alignment, and extent of improvement of the right-of-way toward
537 which the proposed sign would be oriented, insofar as this determines the angle at
538 which the sign would be viewed by the traveling public.

539
540 If the hearing examiner determines that a variance to relax a pole or monument sign
541 setback is warranted, the examiner may require periodic review of any reduction
542 granted and/or provisions for eventual relocation to the required setback if existing and
543 anticipated future conditions so indicate. If provisions for relocation appear appropriate,
544 the examiner may require installation of wiring and a foundation at the required setback

545 concurrent with erection of the sign at a lesser setback and a bond or other suitable
546 guarantee of relocation.

547
548 **Section 4. Amendment.** LMC 21.25.145 is hereby amended to read as follows:

549
550 **21.25.145 Director's decision.**

551 A. General.

552
553 1. Coordination with Decisions Under SEPA. If a SEPA threshold determination
554 is required to be issued, the threshold determination must precede the director's
555 decision on the project. If the SEPA threshold determination is appealed, the director's
556 decision shall be issued prior to the open record hearing on the threshold determination
557 appeal.

558
559 B. Decisional Criteria. The director shall use the criteria listed in this section.

560
561 1. It is consistent with the comprehensive plan.

562
563 2. It is consistent with all applicable provisions of this chapter.

564
565 3. It is consistent with the applicable design guidelines found in the Lynnwood
566 Citywide Design Guidelines, adopted by this reference and incorporated in the
567 provisions of the LMC and Chapter 21.25 LMC as fully as if herein set forth.

568
569 4. For development applications for remodeling or expansion of an existing
570 development, it is consistent with those provisions in the Lynnwood Citywide Design
571 Guidelines identified by the director as being applicable.

572
573 5. For such applications, the director may modify applicable design standards
574 and guidelines to provide continuity between existing and new development and/or
575 proposed phases of development.

576
577 C. Conditions and Restrictions. The director shall include in the written decision any
578 conditions and restrictions that are necessary to ensure compliance with the decisional
579 criteria listed in subsection (B) of this section.

580
581 ~~((D. Contents of Decision. The director shall include the following in the written~~
582 ~~decision:~~

583
584 ~~1. A statement granting, modifying and granting, or denying the application.~~

585
586 ~~2. Any conditions and restrictions that are imposed.~~

587
588 ~~3. A statement of facts presented to the director that support the decision,~~
589 ~~including any conditions and restrictions that are imposed.~~

590



- 591 ~~4. A statement of the director's conclusions based on those facts.~~
 592
 593 ~~5. A statement of the criteria used by the director in making the decision.~~
 594
 595 ~~6. The date of the decision.~~
 596
 597 ~~7. A summary of the rights, as established in this process, of the applicant and~~
 598 ~~others to appeal the decision of the director.~~
 599
 600 ~~8. A statement of any threshold determination made under the State~~
 601 ~~Environmental Policy Act (SEPA), Chapter 43.21C RCW.~~
 602

603 ~~E. Distribution of Written Decision. Within five working days after the written~~
 604 ~~decision of the director is issued, it shall be distributed as follows:~~
 605

- 606 ~~1. A copy will be mailed to the applicant.~~
 607
 608 ~~2. A copy will be mailed to each person who submitted written comments or~~
 609 ~~information to the director.~~
 610
 611 ~~3. A copy will be mailed to any person who has specifically requested it.~~
 612
 613 ~~4. A copy will be given to every member of the city council.))~~
 614

615 D. Content and Notice of Decision. The decision of the Director shall be prepared
 616 and distributed as specified by Chapter 1.35 LMC.
 617

618 **Section 5. Amendment.** Table 21.46.10 of LMC 21.46.100 is hereby amended to read
 619 as follows:
 620

Table 21.46.10

Residential Uses	B-3	B-2	PCD	B-1	CG
Adult Family Homes	P	P	P	P	P
All uses permitted in single-family zones	-	-	P	-	-
Multiple-Family Housing Units ⁺	C*	C	P	-	-
Multiple-Family Housing Units (on parcels designated as Highway 99 Corridor on the Future Land Use Map) \pm	-	-	-	P	P
Caretaker or Watchman Quarters	C	C	-	C	C
Living Quarters for Homeless Mothers ⁺	P	P	P	P	P
Motels and Motor Hotels	-	P	P	P	P-X
Respite Care	P	-	P	P	P

Table 21.46.10

Residential Uses	B-3	B-2	PCD	B-1	CG
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* One-acre minimum lot size, subject to standards and procedures established in Chapter 21.43 LMC for the Multiple Residential Medium Density Zone (RMM) with the exception that maximum building height is three stories or 45 feet, whichever is less. Also subject to additional screening or privacy measures as determined by the hearing examiner during the conditional use permit process, including but not limited to: distance, architectural design, significant tree cover, significant elevation change, fencing, reduction or elimination of lighting immediately adjacent to single-family uses, and prohibitions on activities immediately adjacent to single-family uses that will create noise, odor or other impacts (i.e., garbage collection areas, recreation areas, parking lots). See Figure 21.46.1.

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Section 6. Amendment. LMC 21.46.116 is hereby amended to read as follows:

21.46.116 Limitations on uses – Residential uses.

A. Motels and Motor Hotels. The initial development must contain at least 20 units composed of multiple-unit type buildings and shall provide hotel services, including a main lobby, desk attendant, and room service. When accessory uses providing services for the motor hotel patrons, such as barber, bar, beauty parlor, cleaners, clothing, drugs, pottery, souvenir, tobacco, and travel are included, they shall be primarily oriented internally. Provisions for public functions such as banquets or meetings need not be oriented internally.

B. Multiple-Family Housing.

1. Except for properties zoned PCD, dwellings may be permitted in commercial or office buildings on the fourth floor or higher, provided no more than one-half the floor area of the building (not including basements) is used for residential purposes. All provisions normally applying to high-rise multiple family housing shall apply.

2. For properties zoned PCD, dwellings may be permitted on the second floor of buildings or higher, provided that:

a. General commercial, office, or similar land uses occupy the ground level of the building where the building faces or abuts a public street.

b. Not more than 20 percent of the linear frontage of the ground level that faces a public street may be used for the entrance, lobby, leasing office, etc. for the building's residences.

c. Floor area at ground level limited to general commercial, office, or similar uses shall have a minimum depth of 30 feet, as measured perpendicular to the building façade, so that the floor area may be occupiable for non-residential land uses.

654 d. For development sites where the building is not accessible or visible from
 655 the abutting public street, the Community Development Director may authorize
 656 dwellings to be located below the second floor of the building.
 657

658 3. For properties subject to the provisions of this chapter, development with
 659 multifamily dwellings shall provide a minimum of 40 square feet of onsite recreation
 660 area per dwelling. The onsite recreation area shall consist of a minimum of two of the
 661 following:
 662

663 a. Individual patio, deck or balcony immediately adjacent to the
 664 corresponding dwelling. Individual patios, decks, or balconies shall be designed so that
 665 a six-foot by six-foot square will fit within the perimeter of the patio, deck or balcony.
 666

667 b. Outdoor recreation area accessible to all residents of the development and
 668 designed so that a 15-foot by 15-foot square will fit within the perimeter of the outdoor
 669 recreation area. Common outdoor recreation areas shall include features such as:
 670 landscaped courtyard or plaza; seating; lighting; roof-top garden; children’s play
 671 structure; and sport court. Outdoor recreation areas may include overhead weather
 672 protection, but shall not be enclosed. Landscaping required within parking areas shall
 673 not be considered outdoor recreation area.
 674

675 c. Indoor recreation space accessible to all residents of the development and
 676 designed so that a 12-foot by 12-foot square will fit within the indoor recreation area.
 677 Indoor recreation areas shall include furnishings and fixtures for activities such as:
 678 aerobic exercise; children’s play; indoor games; sports; hobbies and crafts; and video
 679 entertainment.
 680

681 C. Multiple-Family Housing – Highway 99 Corridor in the Community Business (B-1)
 682 and General Commercial (CG) zones. Multiple-family housing is permitted in the B-1
 683 and CG zones on specified parcels in the Highway 99 corridor as designated on the city
 684 of Lynnwood future land use map. Multiple-family residential development may be
 685 combined with mixed use development subject to the following bulk requirements:
 686

**Table 21.46.13(a)
 Development Level**

Development standard	Sites with residential development of less than 20 dwelling units per acre	Sites with residential development of 20 dwelling units or more per acre
Minimum lot area	None	None
Minimum setbacks*		
Public street	None	None
Interior property lines	None	None

**Table 21.46.13(a)
Development Level**

Development standard	Sites with residential development of less than 20 dwelling units per acre	Sites with residential development of 20 dwelling units or more per acre
Ground floor residential units+	10 ft.	10 ft.
Minimum sidewalk width along public streets	12 ft.	12 ft.
Maximum lot coverage	35%	None
Maximum building height	50 ft.	90 ft., not to exceed six stories
Minimum dwelling units/acre++	N/A	20 DU/A
Maximum floor-area ratio	1.0	3.0

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* See LMC 21.62.450 for development adjacent to a residential zone (Transitional Property Lines).

+ Applies to residential projects only; setback is from all public rights-of-way, internal circulation (vehicle, bicycle, pedestrian), parking areas, or access easement. Alternatively, where vision-obscuring glass is installed, the setback may be eliminated.

++ The minimum number of residential units to qualify for this level shall be calculated using the entire project site. Where residential development is part of redevelopment of one or more parcels, this calculation shall be based only on the portion of the parcel(s) being redeveloped. Fractional portions of a unit are “rounded up” for this calculation.

Buildings within 200 feet of Highway 99 shall be mixed use development with commercial development on the first floor. Phased development may occur on large parcels but the initial development plan is required to illustrate the commercial activity adjacent to Highway 99.

Multiple-family development shall comply with the remainder of the development regulations established in Chapter 21.62 LMC, Highway 99 Mixed Use Zone, unless otherwise indicated in Chapter 21.62 LMC. Stand-alone multiple-family development or mixed use development shall also comply with the Design Guidelines for the Highway 99 Mixed Use zones.

Processing of a multiple-family development, including associated mixed use, will be subject to the provisions set forth in Chapter 21.30 LMC, Planned Unit Development.

D. Convalescent and Nursing Homes and Housing for the Elderly and Physically Disabled. These uses may be allowed by conditional permit.

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1. Staff Evaluation and Recommendation. Before any conditional use permit for the uses designated in this subsection is considered by the hearing examiner and city council, a joint recommendation concerning development of the land and/or construction of the buildings shall be prepared by the fire and community development departments, specifying the conditions to be applied if approved. If it is concluded that the application for a conditional use permit should be approved, each requirement in the joint recommendation shall be considered and any which are found necessary for the protection of the health, safety, and general welfare of the public shall be made part of the requirements of the conditional use permit. In any case, the approval of the conditional use permit shall include the following requirements:

a. The proposal's proximity to stores and services, safety of pedestrian access in the vicinity, access to public transit, design measures to minimize incompatibility between the proposal and surrounding businesses;

b. Compliance with all applicable state, federal, and local regulations pertaining to such use, a description of the accommodations, and the number of persons accommodated or cared for, and any structural requirements deemed necessary for such intended use;

c. The amount of space around and between buildings shall be subject to the approval of the fire chief as being adequate for reasonable circulation of emergency vehicles or rescue operations and for prevention of conflagration;

d. The proposed use will not adversely affect the surrounding area as to present use or character of the future development;

e. Restriction to such intended use except by revision through a subsequent conditional use permit;

2. Development Standards. Housing for the elderly and physically disabled facilities shall conform to the following criteria:

a. Lot area per dwelling unit: 1,000 square feet minimum per unit;

b. Passive recreation and/or open space: 200 square feet per unit. In the city's higher density multiple-family zones, developments are required to provide active recreational space to help satisfy a portion of the demand for recreational facilities. Housing for the elderly has a similar need but is of a passive nature. Therefore, passive recreation space and/or open space shall be provided. Up to 50 percent of the requirement may be indoors; provided, that the space is utilized exclusively for passive recreation and/or open space (i.e., arts and crafts rooms, solariums, courtyards). All outdoor recreation and/or open space areas shall be set aside exclusively for such use and shall not include areas held in reserve for parking, as per LMC 21.18.800. All open space and/or recreational areas shall be of a permanent nature, and they may be

762 restricted to use by tenants only. The use of private and semi-private patios and
763 balconies in meeting these requirements is not permitted.

764
765 E. Living Quarters, Homeless Teenage Parents. Living quarters designed for
766 homeless teenage parents and their children are permitted in any commercial zone of
767 the city. For the purposes of this section, "living quarters for homeless teenage parents"
768 is defined to mean a building or buildings occupied for living purposes by not more than
769 eight teenage parents and their children.

770
771 1. Supervision and Maximum Occupancy. Such living quarters must have an
772 adult supervisor residing therein. The maximum number residing therein at any time
773 shall not exceed 2:1, including parents, children, and adult supervisor(s).

774
775 2. Development Regulations and Standards. Subdivision and zoning
776 development standards for living quarters for teenage parents shall be the same as for
777 the low density multiple-family residential zone (RML). Such quarter shall be treated as
778 an R occupancy for fire and building codes.

779
780 ~~3. Expiration.~~ 

781
782 ~~a. Notwithstanding below herein, uses established in accordance with this~~
783 ~~provision shall be considered lawful permitted uses as provided herein for as long as~~
784 ~~such use continues to exist. Non-use of any living quarter for teenage parents for more~~
785 ~~than six months shall be deemed to be abandoned and such use shall lose all right to its~~
786 ~~legal status.~~

787
788 ~~b. Except as provided for above, this subsection shall expire on December~~
789 ~~15, 1992.~~

790
791 **Section 7. Amendment.** LMC 21.48.116 is hereby amended to read as follows:

792
793 **21.48.116 Limitations on uses – Residential uses.**

794 A. Motels and Motor Hotels. The initial development must contain at least 20 units
795 composed of multiple-unit type buildings, and shall provide hotel services, including a
796 main lobby, desk attendant, and room service. When accessory uses providing
797 services for the motor hotel patrons, such as barber, bar, beauty parlor, cleaners,
798 clothing, drugs, pottery, souvenir, tobacco, and travel are included, they shall be
799 primarily oriented internally. Provisions for public functions such as banquets or
800 meetings need not be oriented internally.

801
802 B. Multiple-Family Housing. Dwellings may be permitted, consistent with the use
803 and development regulations for multiple-family dwellings in the ~~PRG~~ PCD zone. 

804
805 C. Convalescent and Nursing Homes and Housing for the Elderly and Physically
806 Disabled. These uses may be allowed by conditional use permit:

807

808 1. Staff Evaluation and Recommendation. Before any conditional use permit for
809 the uses designated in this subsection is considered by the hearing examiner, a joint
810 recommendation concerning development of the land and/or construction of the
811 buildings shall be prepared by the fire and community development departments,
812 specifying the conditions to be applied if approved. If it is concluded that the application
813 for a conditional use permit should be approved, each requirement in the joint
814 recommendation shall be considered and any which are found necessary for protection
815 of the health, safety, and general welfare of the public shall be made part of the
816 requirements of the conditional use permit. In any case, the approval of the conditional
817 use permit shall include the following requirements:

818
819 a. The proposal's proximity to stores and services, safety of pedestrian
820 access in the vicinity, access to public transit, design measures to minimize
821 incompatibility between the proposal and surrounding businesses;

822
823 b. Compliance with all applicable state, federal, and local regulations
824 pertaining to such use, a description of the accommodations and the number of persons
825 accommodated or cared for, and any structural requirements deemed necessary for
826 such intended use;

827
828 c. The amount of space around and between buildings shall be subject to the
829 approval of the fire chief as being adequate for reasonable circulation of emergency
830 vehicles or rescue operations and for prevention of conflagration;

831
832 d. The proposed use will not adversely affect the surrounding area as to
833 present use or character of the future development;

834
835 e. Restriction to such intended use except by revision through a subsequent
836 conditional use permit;

837
838 2. Development Standards. Housing for the elderly and physically disabled
839 facilities shall conform to the following criteria:

840
841 a. Lot area per dwelling unit: 1,000-square-foot minimum per unit;

842
843 b. Passive recreation and/or open space: 200-square-foot minimum per unit.
844 In the city's higher density multiple-family zones, developments are required to provide
845 active recreational space to help satisfy a portion of the demand for recreational
846 facilities. Housing for the elderly has a similar need but is of a passive nature.
847 Therefore, passive recreation space and/or open space shall be provided. Up to 50
848 percent of the requirement may be indoors; provided, that the space is utilized
849 exclusively for passive recreation or open space (i.e., arts and crafts rooms, solariums,
850 courtyards). All outdoor recreation and/or open space areas shall be set aside
851 exclusively for such use and shall not include areas held in reserve for parking, as per
852 LMC 21.18.800. All open space and/or recreational areas shall be of a permanent

853 nature, and they may be restricted to use by tenants only. The use of private and semi-
854 private patios and balconies in meeting these requirements is not permitted.

855
856 D. Living Quarters, Homeless Teenage Parents. Living quarters designed for
857 homeless teenage parents and their children are permitted in any commercial zone of
858 the city. For the purposes of this section, "living quarters for homeless teenage parents"
859 is defined to mean a building or buildings occupied for living purposes by not more than
860 eight teenage parents and their children.

861
862 1. Supervision and Maximum Occupancy. Such living quarters must have an
863 adult supervisor residing therein. The maximum number residing therein at any one
864 time shall not exceed 21, including parents, children, and adult supervisor(s).

865
866 2. Development Regulations and Standards. Subdivision and zoning
867 development standards for living quarters for teenage parents shall be the same as for
868 the low density multiple-family residential zone (RML). Such quarters shall be treated
869 as a R occupancy for fire and building codes.

870
871 ~~3. Expiration.~~

872
873 ~~a. Notwithstanding below herein, uses established in accordance with this~~
874 ~~provision shall be considered lawful permitted uses as provided herein for as long as~~
875 ~~such use continues to exist. Non-use of any living quarters for teenage parents for~~
876 ~~more than six months shall be deemed to be abandoned and such use shall lose all~~
877 ~~right to its legal status.~~

878
879 ~~b. Except as provided for above, this subsection shall expire on December~~
880 ~~15, 1992.~~

881
882 **Section 8 Amendment.** LMC 21.50.100 is hereby amended to read as follows:

883
884 **21.50.100 Uses allowed in the industrial zones.**

885



Table 21.50.01

Use	BTP	LI
Accessory Greenhouses	AC*	-
Assembly of Wood, Light Metal, Glass, Electronic, Electrical or Plastic Parts or Components which are extruded, stamped, manufactured, shaped, or prepared elsewhere, not precluding minor processes such as cutting, drilling, soldering, or minor welding	P	P
Athletic Clubs and athletic facilities containing such facilities such as handball, racquetball, and tennis, and basketball courts, swimming pools, and exercise rooms	P	P
Auditoriums	-	P



Table 21.50.01

Use	BTP	LI
Auto Wrecking Yards	–	C
Automotive and Machinery Repairing and Storage	–	P
Banks and Other Financial Institutions	C	–
Barber Shops and Beauty Parlors	AC*	–
Battery Exchange Station (Electric Vehicle), Principal or accessory use	P, A	P, A
Biotechnology (except manufacturing pharmaceuticals)	P	P
Blacksmithing, Welding, and Metal Fabricating Shops	–	P
Bookstores, News Stands, and Stationery Stores	AC*	–
Bottling and Packaging Plants	C	–
Building Material Yards	–	P
Business and Professional Offices including offices of a clerical or administrative nature	P	P
Business Services and Office Supplies	P	–
Cabinet, Millwork, or Wood Prefabrication Operations	C	P
Child Day Care (e.g., day care for children of employees or of patrons)	–	AC
Contractor's Offices, Shops, and Indoor Storage	P	P
Contractor's Offices, Shops, and Storage Yards	–	P
Electric Vehicle Charging Station, Level 1, Level 2 or Level 3, if accessory to a permitted or conditionally permitted use.	A	A
Employees' Cafeterias	AC	P
Florist Shops	AC*	–
Food and Dry Goods Distribution Operations	P	P
Food and Dry Goods Processing and Packaging	C	P
Freight Warehouse Terminals	C	P
Furniture Manufacture and Repair Shops	C	P
Gift Shops	AC*	–
Indoor and/or Outdoor Tennis Courts, Racquet Clubs, and Handball Courts	G	–
Research and Development	P	P
Laundry and Dry Cleaning Plants	–	P
Manufacturing, Rebuilding or Repairing Nonmetal Products	–	P
Manufacturing Pharmaceuticals	–	C
Mass Transit Storage and Maintenance Facilities	–	C



Table 21.50.01

Use	BTP	LI
Mini-Warehouses	P	–
Municipal Services	P	P
Park and Pool Lots	C	P
Pharmacies in conjunction with medical, dental, optical, and chiropractic clinics	AC	–
Plant Nurseries	AC*	–
Printing, Publishing and Binding	P	–
Printing Plants	–	P
Public Utility Facilities	C	–
Recycling Collection Centers	–	C
Repair Shops for Household Appliances	AC*	–
Residences for Watchmen or Custodians	–	P
Restaurants providing on-premises service	AC*	–
Retail Lumber Yards	–	P
Universities, Colleges, Schools, including preschools, commercial schools, such as dancing, music, trade, etc.	P	–
Veterinary Clinics and Veterinary Hospitals ⁺	C	–
Warehouses (except mini-warehouses)	P	P
Wholesale trade (i.e., wholesale stores)	P	P
Wholesale trade (i.e., wholesale stores) with retailing confined exclusively to products which are manufactured, packaged, repacked, reloaded or otherwise processed on the same premises	C	P
Wireless Communications Facility less than 300 feet from residential zones (as measured from the wireless communications support structure to the property line of the nearest residentially zoned parcel) ⁺	C	C
Wireless Communications Facility 300 feet or more from residential zones (as measured from the wireless communications support structure to the property line of the nearest residentially zoned parcel)	P	P
Wireless Communications Facility, Attached	P	P
Wood, Coal and Oil Fuel Yards	–	P

886 +See LMC 21.50.110.

887 Key:

P = Use is permitted as a primary use.

C = The use may be permitted through issuance of a conditional use permit.

A = Permitted as accessory use with a principal permitted or approved conditional use.

AC = Use is permitted as an accessory conditional use and must be related to the principal use of the tenant space or property.

AC* = These accessory conditional uses may occupy no more than 25 percent of the floor area.

- = Use is prohibited.

888

889

890 **Section 9 Amendment.** LMC 21.50.210 is hereby amended to read as follows:

891

892 **21.50.210 Additional development standards.**

893

A. Building Height.

894

895 1. BTP Zone. For ~~these~~ buildings taller than three stories, the floor area to

896 lot area ratio (FAR) shall not exceed 0.4, unless specifically allowed by conditional use

897 permit approval. In connection with any such conditional use permit approval, the

898 applicant shall demonstrate that the additional floor area will not adversely impact traffic

899 flow and volumes on the public streets, as compared to other existing or anticipated

900 developments on other properties in the same zone and vicinity.

901

902 2. LI Zone. ~~A height variance may be obtained~~ The community

903 development director may authorize a minor increase in maximum building

904 height when a proof of the applicant demonstrates conformance with the general intent

905 of this chapter ~~has been established.~~

906

907 B. Setbacks for Fences. All setbacks ~~in subsection (A) of this section~~ specified

908 by this chapter shall also apply to fences. However, fences, walls and hedges up to six

909 feet ~~high in height~~ may be located in any portion of an industrial-zoned lot as long

910 as ~~they are~~ the fence is not located within intersection and driveway sight distance

911 triangles, ~~de~~ does not obstruct driver and pedestrian visibility, ~~empty and complies~~

912 applicable Lynnwood Citywide Design Guidelines, as adopted by reference in LMC

913 21.25.145(B)(3), ~~and are approved through project design review (Chapter 21.25 LMC).~~

914

915 C. Landscaping Requirements for Sites in the Light Industrial Zone.

916

917 1. On a transitional site, at least 50 percent of the front yard area shall be

918 landscaped which may include landscaping requirements in parking lots.

919

920 2. On a general site, at least 25 percent of the front yard area shall be

921 landscaped which may include landscaping requirements in parking lots.

922

923 3. Where interior property lines of a site being developed are not affected

924 by other landscaping standards and are not adjoined by buildings, trees shall be planted

925 inside and along the property line with a spacing of 40 feet or less between the trees.

926

927 D. Parking Requirements.

928



929 1. Required Number of Stalls. Requirements for parking are provided in
930 Chapter 21.18 LMC. ~~At transitional sites in the BTP zone, the landscaping requirement~~
931 ~~along zoning boundaries which occur along streets may be counted to fulfill front yard~~
932 ~~parking lot landscaping, providing the building is located no closer to the street than the~~
933 ~~minimum allowable setback.~~



934
935 2. Landscaping in Parking Areas.

936
937 a. Planting at Street Frontages.



938
939 i. Development sites without parking areas located
940 ~~only between the sides of building(s) opposite~~ along the street frontage ~~and interior~~
941 ~~property lines~~ shall provide a 10-foot-wide planting area along the entire street frontage,
942 except for driveways, walkways and other pedestrian spaces.

943
944 ii. Development sites with single-aisle, double-loaded
945 parking areas located between buildings and the street right-of-way, ~~parking areas~~
946 ~~between buildings or parking areas between buildings and the closest side property line~~
947 shall provide a 15-foot-wide planting area along the entire street frontage with the same
948 above exceptions.

949
950 iii. Development sites with multi-aisle parking areas located
951 between buildings and the street right-of-way shall provide a 20-foot-wide planting area
952 along the entire street frontage with the same above exceptions.

953
954 iv. Planting at street frontages shall consist of ornamental
955 landscaping of low plantings and high plantings. The minimum height of trees shall be
956 eight feet for evergreen trees and 10 feet for all other species. Trees shall be spaced a
957 maximum of 25 feet on center with branches eliminated to a height of six feet where
958 necessary to prevent sight obstruction. The required trees in this planting area may be
959 located within the adjacent street right-of-way as long as ~~they~~ the trees comply with
960 Lynnwood Citywide Design Guidelines, as adopted by reference in LMC
961 21.25.145(B)(3), and are approved by the public works department. Low evergreen
962 plantings, or a mixture of low evergreen and deciduous plantings with a maximum
963 height of 30 inches, shall be provided so as to achieve 50 percent groundcover within
964 two years.

965
966 b. At transitional sites in the BTP zone, the landscaping
967 requirement along zoning boundaries which occur along streets may be counted to fulfill
968 front yard parking lot landscaping, providing the building is located no closer to the
969 street than the minimum allowable setback.



970
971 ~~b c.~~ Landscaping in Right-of-Way. Additional plantings may be
972 placed ~~on~~ within the street right-of-way as authorized by the public works
973 department. ~~behind the sidewalk line if the property owner provides the city with a~~
974 ~~written release of liability for damages which may be incurred to the planting area from~~



975 ~~future street expansion or utility installation and/or agrees to relocate plantings at~~
976 ~~owner's expense.~~

977
978 e d. Coverage. Ten percent of the parking areas located between
979 buildings or between buildings and interior property lines, and single-aisle, double-
980 loading parking areas located between buildings and the street; and 15 percent of multi-
981 aisle parking areas located between buildings and street shall be in landscaping
982 (exclusive of landscaping on the street frontage and required landscape buffers);
983 provided, that:

984
985 i. No landscaping area shall be less than 100 square feet in
986 area or less than five feet in width;

987
988 ii. No parking stall shall be located more than 45 feet from a
989 landscaped area; and

990
991 iii. All landscaping must be located between parking stalls or
992 between parking stalls and the property lines.

993
994 d e. Landscaping Adjacent to Parking Stalls. Where landscaping
995 areas which fulfill city standards are adjoined by angular or perpendicular parking stalls,
996 landscaping in the form of groundcover materials or plants may be installed in that
997 portion of any parking stall which will be ahead of the wheels and adjacent to the
998 landscaped area; provided, that curbing or wheel stops are installed in a position which
999 will protect the plants from damage. Such landscaping shall not be construed to be part
1000 of the percentage of landscaped area required by this chapter nor a reduction of the
1001 parking stall.

1002
1003 e f. Additional Landscaping Along Specified Streets. Along streets
1004 where it may be desirable and feasible to obtain a higher degree of continuity in
1005 landscaping from property to property than is provided for here, the city council, upon
1006 recommendation by the planning commission, may designate specific street frontage
1007 landscaping plans for those streets. See Chapter 21.06 LMC.

1008
1009 E. Surface Water Management. Each industrial area shall have adequate
1010 facilities for management of surface water.

1011
1012 F. Screening of Service Yards. Service yards shall be site-screened so that a
1013 visual barrier is established between the storage yard and local streets and arterials.

1014
1015 Screening shall be installed on side yard setbacks between street right-of-way
1016 and service buildings or storage yards (except for driveways). It shall consist of either:

1017
1018 1. One row of evergreen conifer trees, spaced a maximum of 10 feet on
1019 center. Minimum tree height shall be six feet. The remainder of the planting strip shall

1020 be promptly planted with low evergreen plantings which will mature to a total
1021 groundcover within five years; or

1022
1023 2. A site-screening evergreen hedge that provides a sight, sound, and
1024 psychological barrier between zones with some degree of incompatibility. The spacing
1025 of plants shall be such that they will form a dense hedge within five years. Minimum
1026 plant height shall be four feet.

1027
1028 G. Development Standards – Cooperative Programs. In the BTP zone,
1029 cooperative development of adjacent properties is encouraged.
1030 LMC ~~21.46.900(E)~~ 21.46.900.D provides incentives which should be considered when
1031 contemplating development, particularly the development of relatively small properties.



1032
1033 **Section 10. Severability.** If any section, sentence, clause or phrase of this ordinance
1034 should be held to be invalid or unconstitutional by a court of competent jurisdiction, such
1035 invalidity or unconstitutionality shall not affect the validity or constitutionality of any other
1036 section, sentence, clause or phrase of this ordinance.

1037
1038 **Section 11. Effective Date.** This ordinance or a summary thereof consisting of the title
1039 shall be published in the official newspaper of the City, and shall take effect and be in
1040 full force five (5) days after publication.

1041 PASSED BY THE CITY COUNCIL, the _____ day of _____, 2015.

1042
1043
1044 APPROVED:

1045
1046
1047 _____
1048 Nicola Smith, Mayor

1049
1050 ATTEST/AUTHENTICATED:

1051
1052
1053
1054 _____
1055 Art Ceniza
1056 Interim Finance Director

1057
1058 APPROVED AS TO FORM:

1059
1060
1061 _____
1062 Rosemary Larson
1063 City Attorney

1064
1065 FILED WITH ADMINISTRATIVE SERVICES: _____

1066 PASSED BY THE CITY COUNCIL: _____
1067 PUBLISHED: _____
1068 EFFECTIVE DATE: _____
1069 ORDINANCE NUMBER: _____
1070
1071

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On the _____ day of _____, 2015, the City Council of the City of Lynnwood, Washington, passed Ordinance No. _____. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, CORRECTING NON-SUBSTANTIVE, MANIFEST ERRORS AND AMENDING PROCEDURAL PROVISIONS WITHIN TITLE 21 OF THE LYNNWOOD MUNICIPAL CODE (LMC), REPEALING EXPIRED PROVISIONS OF LMC 21.16.310, LMC 21.46.116 AND LMC 21.48.116, AMENDING LMC 1.35.LMC 21.12.400D, LMC 21.25.145, LMC 21.46.116, LMC 21.48.116, LMC 21.50.100, AND LMC 21.50.210 AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

The full text of this Ordinance will be mailed upon request.

DATED this _____ day of _____, 2015.

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Lynnwood Planning Commission
Meeting of May 28, 2015

Staff Report

Agenda Item: **E.1**

Transportation Improvement Plan

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

Staff Contact: Ngan Ha Yang, Public Works

Introduction: The City of Lynnwood is required annually to amend and adopt a **Six Year Transportation Improvement Plan**, which lists anticipated street projects and their costs for the six year period. This requirement is set out in RCW 35.77.010, RCW 36.81.121 and modified by HB 1525.

Attached is a summary project list for the 2016 – 2021 Six-Year TIP. There are 7 programs, 2 studies, and 30 projects on this year’s list, for a six-year total of \$160,099,210. The programs/projects are grouped into six categories:

1. Recurring Annual Programs
2. New/Expanded Roads
3. Non-Motorized
4. Intersection Improvements
5. City Center
6. Miscellaneous

The Proposed TIP covers the years 2016 - 2021. The projects in the TIP are derived directly from the 2015 – 2020 Capital Facilities Plan with minor modifications. Scheduling is determined by need and probable funding sources. All of these projects are based on the policies set forth in the City of Lynnwood Comprehensive Plan.

State of the Transportation System: The annual updating of the Six Year TIP is an opportunity to look at how far we have come over the last few years and to look where we are headed in the future. Changes from last year reflect progress in completing projects.

Recent Past: Over the last 10 years the City has seen the completion of several significant transportation projects:

1. Completion of the widening of 44th Ave W from 196th St SW to I-5
2. Completion of the widening of 176th St SW from Olympic View Drive to SR 99
3. Completion of the widening of Olympic View Drive, Phases 1 & 2
4. Lynnwood Traffic Management Center at City Hall
5. Interurban Trail/44th Ave W Pedestrian Bridge and Trail
6. I-5/196th St SW Pedestrian Improvements
7. WSDOT Braided Ramp Project on southbound I-5

8. 48th Avenue W Sidewalks Project
9. 44th Avenue W Sidewalks Project

In Design: Projects in design include:

- 36th Ave W, Maple Road to SR-99
- 196th St SW, 48th Ave W to 37th Ave W
- Poplar Way / 33rd Ave Extension over I-5
- Interurban Trail, South Segment
- 194th – 40th to 33rd Pre-design Study
- Citywide Bikelink
- Paving 184th – 33rd to AMP; AMP – 184th to 182nd

In Construction: Projects in construction include:

- 33rd Ave W/ LHS Ring Road
- 204th St SW/ 68th Ave W to SR-99
- Citywide Safety Improvements
- SR-99/SR-524 Adaptive Signal Control
- SR-99/SR-524 Safety Improvements

Changes in the proposed 2016-2021 TIP: Due to prioritization, project completion, new grant funding, and/or budgetary constraints, the following projects were either removed, or added:

- Removed: 33rd Ave W/ LHS Ring Road
- Removed: 204th St SW/ 68th Ave W to SR-99
- Removed: Interurban Trail Imp.(Vic. of 208th St SW & 52nd)

Action and Scheduling: The Planning Commission is requested to consider the proposed the proposed 2016 – 2021 TIP and forward a recommendation on to the City Council. The Commission's recommendation will be forwarded to the City Council for consideration and discussion at a future City Council Work Session. A City Council Public Hearing will also be scheduled followed by adoption of an ordinance at a City Council Business Meeting.

Attachment(s): Proposed Six Year Transportation Improvement Plan (TIP) 2016 – 2021 and associated map.



City of Lynnwood Six Year TIP 2016-2021

Project Type	Map ID #	Project Title	Funded	Six Year Total	Prior	2,016	2,017	2,018	2,019	2,020	2,021	Project Total		
Recurring Annual Programs		Overlay Program	P	21,000,000	N/A	3,500,000	3,500,000	3,500,000	3,500,000	3,500,000	3,500,000	NA		
		Traffic Signal Rebuild Program	N	2,400,000	N/A	400,000	400,000	400,000	400,000	400,000	400,000	NA		
		Transportation Business Plan	N	450,000	N/A	75,000	75,000	75,000	75,000	75,000	75,000	NA		
		Sidewalk and Walkway Program - ADA Ramps	N	400,000	N/A	100,000	90,000	80,000	70,000	30,000	30,000	NA		
		Sidewalk and Walkway Program - Maintenance	N	600,000	N/A	100,000	100,000	100,000	100,000	100,000	100,000	NA		
		Neighborhood Traffic Calming Program	N	300,000	N/A	50,000	50,000	50,000	50,000	50,000	50,000	NA		
		Sidewalk and Walkway Program	N	2,250,000	N/A	375,000	375,000	375,000	375,000	375,000	375,000	NA		
	Subtotal			27,400,000		4,600,000	4,590,000	4,580,000	4,570,000	4,530,000	4,530,000			
New/Expanded Roads	56	36th Ave W	Maple Road	164th St SW	P	9,500,000	1,500,000	1,500,000	8,000,000			11,000,000		
	57	36th Ave W		164th St SW	SR 99	P	9,500,000	3,390,000	1,500,000	8,000,000		12,890,000		
	D	Poplar Extension Bridge		196th St SW	AMB	P	29,566,000	2,674,000	504,000	3,526,000	9,576,000	12,768,000	3,192,000	32,240,000
	36	Maple Road Extension	AMP		32nd Ave W	P	1,937,000	-		173,000	1,764,000		1,937,000	
	41	52nd Ave W		168th St SW	176th St SW	N	2,949,000	-			236,000	176,000	2,537,000	2,949,000
	A	33rd Ave W Extension		33rd Ave W	184th St SW	N	11,445,000	-			355,000	6,085,000	5,005,000	11,445,000
	E	33rd Ave W Extension	Maple Road			N	3,200,000	-			220,000	550,000	2,430,000	3,200,000
	92	Beech Road Extension	AMP	Ashtway Underpass		N	3,970,000	-			320,000	210,000	3,440,000	3,970,000
	69	200th St SW		64th Ave W	48th Ave W	N	500,000	25,321,000					500,000	25,821,000
	Subtotal					72,567,000		3,504,000	19,699,000	11,340,000	13,899,000	10,213,000	13,912,000	105,452,000
Non-Motorized	5	Interurban Trail Imp.		Vic. of 212th St SW	Y	598,710	377,609	598,710					976,319	
	3	176th St SW Road Diet		52nd Ave W	44th Ave W	N	71,000	24,000	71,000				95,000	
	48	Pedestrian Signal		SR-99	180th St SW	N	587,000	-			69,000	518,000	587,000	
	Subtotal					1,256,710	401,609	669,710			69,000	518,000	1,658,319	

RECEIVED

APR 27 2015

CITY OF LYNNWOOD
PERMIT CENTER

ERC-002719-2015

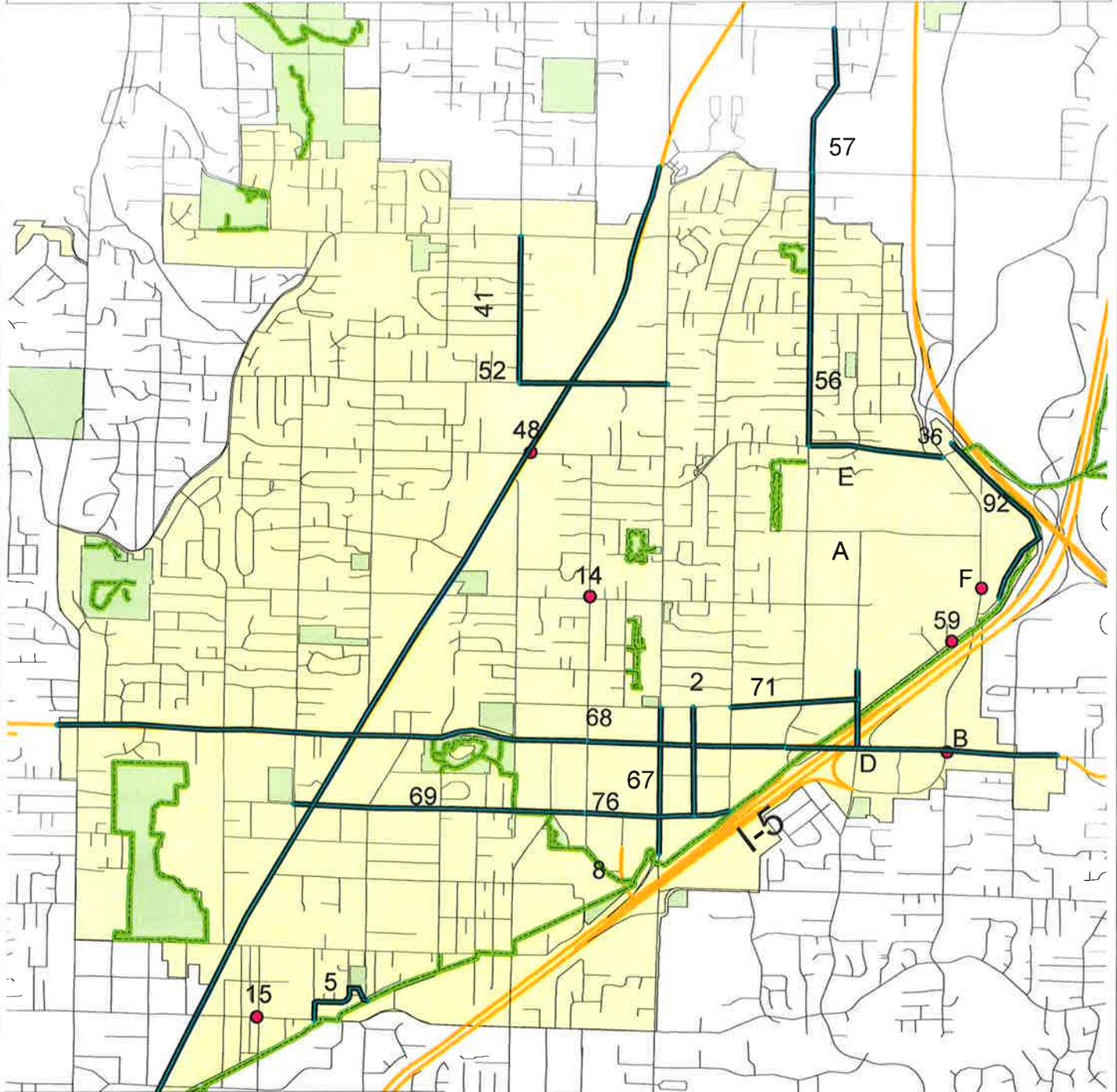
City of Lynnwood Six Year TIP 2016-2021

Project Type	Map ID #	Project Title	Funded	Six Year Total	2,015	2,016	2,017	2,018	2,019	2,020	Project Total		
Intersection Improvements	52	Roundabout/Traffic Signal 52nd Ave W	176th St SW	N	507,000	-	-	-	45,000	462,000	507,000		
	F	Traffic Signal/Turn Lane Sears Driveway	AMP	P	1,377,000	-	68,000	487,000	822,000	-	1,377,000		
	59	Traffic Signal 28th Ave W	AMB	P	1,464,000	-	100,000	-	246,000	1,118,000	1,464,000		
	14	Roundabout/Traffic Signal 48th Ave W	188th St SW	N	744,000	-	-	104,000	640,000	-	744,000		
	15	Traffic Signal 66th Ave	212th St	N	744,000	-	-	104,000	640,000	-	744,000		
	B	Traffic Signal/Turn Lane 196th St SW	AMP	N	707,000	-	-	-	40,000	207,000	460,000	707,000	
			Subtotal		5,543,000	-	-	168,000	695,000	2,142,000	498,000	2,040,000	5,543,000
City Center		City Center Rail Stations Study		N	400,000	-	200,000	200,000	-	-	400,000		
	68	196th St SW (SR-524) 37th Ave W	48th Ave W to	P	15,700,000	52,000	600,000	600,000	3,000,000	5,000,000	6,500,000	15,752,000	
	2	42nd Ave W	200th St SW	N	19,600,000	-	-	3,300,000	7,800,000	8,500,000	19,600,000		
	67	44th Ave W	I-5	N	9,000,000	-	-	-	2,000,000	5,000,000	2,000,000	9,000,000	
	71	194th St SW	33rd Ave W	N	16,100,000	7,900,000	-	-	-	5,300,000	10,800,000	24,000,000	
	76	200th St SW	40th Ave W	N	5,400,000	4,600,000	-	-	-	2,600,000	2,800,000	10,000,000	
		Subtotal		50,600,000	28,152,000	800,000	800,000	6,300,000	14,800,000	27,900,000	15,600,000	78,752,000	
Misc.	9	SR-99/SR-524 Safety Improvements	SR-99: 212th St to 164th St Ave to 24th Ave	SR-524: 76th	Y	535,000	396,000	535,000	-	-	931,000		
	10	SR-99/SR-524 Adaptive Signal Control	SR-99: 238th St to 164th St Ave to 24th Ave	SR-524: 76th	Y	432,500	40,000	432,500	-	-	472,500		
		Citywide Safety Improvements	Citywide		Y	265,000	35,000	150,000	115,000	-	300,000		
		Lynnwood Link Trolley Feasibility Study	ECC, Transit Ctr, CC, Conv.Ctr, Alderwood mall		N	100,000	-	-	100,000	-	100,000		
		Bike Link	CityWide			1,400,000	(1,400,000)	400,000	500,000	470,000	30,000		
	8	North Link LRT Extension	Northgate	Lynnwood Transit Center	Y	0	-	-	-	-	-	-	
		Subtotal		2,732,500	(929,000)	1,517,500	615,000	470,000	130,000	-	1,803,500		
Totals					160,099,210	27,624,609	11,091,210	25,872,000	23,385,000	35,610,000	43,659,000	36,082,000	193,208,819



LYNNWOOD
WASHINGTON

2016-2021 Transportation Improvement Plan (TIP)



Legend:

- Project
- Parks
- ▬ Project
- Schools

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