

AGENDA
Lynnwood Planning Commission
Meeting
Thursday, August 13, 2020 — 6:30 pm
Online via Zoom

A. CALL TO ORDER – ROLL CALL

B. APPROVAL OF MINUTES

1. June 25, 2020 minutes
2. July 9, 2020 minutes

C. PUBLIC COMMENTS – (on matters not scheduled for discussion or public hearing on tonight's agenda) Note: Individuals 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. Individuals 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. Surface Water Comprehensive Plan
2. FEMA / Floodplain Regulations Updates

E. WORK SESSION TOPICS

1. Development Agreement and Binding Site Plan Code Amendments
2. Land Use Extensions due to Covid-19

F. OTHER BUSINESS

G. COUNCIL LIAISON REPORT

H. PLANNING MANAGER'S REPORT

I. COMMISSIONERS' COMMENTS

J. ADJOURNMENT

The public is invited to attend and participate in this public meeting. 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.

Joining Planning Commission via Zoom

How the Meeting Will Work

Virtual Planning Commission Meetings will be held via Zoom Webinar. The Community Development Department is hosting the meeting, the Lynnwood Planning Commission are the Panelists, and Lynnwood residents and members of the public – as well as City staff or guest presenters – are attendees. Webinar attendees do not interact with one another; they join in listen-only mode, and the host can unmute one or more attendees as needed.

Meeting Links and Numbers

- **Join from a PC, Mac, iPad, iPhone or Android device:**
 - Download the Zoom Client at: <https://zoom.us/download>.
 - Use Zoom Version 5.0.4 (25694.0524) or later.
 - Please click this URL to join. <https://lynnwoodwa.zoom.us/j/94892782907>
- **Or join by phone:** +1 253 215 8782
Webinar ID: 948 9278 2907

How to Provide Public Comments

The Community Development Department is accepting public comments on behalf of the Planning Commission via Email.

- **Email:** Please add the Planning Commission meeting date in the subject line or in body of the text message such as in the examples below.
 - Send Email to: planning@LynnwoodWA.gov
 - Subject Line: Public Comment for the 6/25/20 Planning Commission Meeting
- **Live Public Comment:** If you are unable to provide a written comment, you may join the webinar as an attendee to comment during the public comment period. Public participation guidelines are provided at the bottom of this page.

Participation Guidelines

Below are recommendations for attendees in meetings conducted via Zoom Webinar.

- **Identification:** Upon entering the webinar, please enter your name or other preferred identifier, so that the host can call on you during the public comment period.
- **Raise Hand (see link below for instructions):** You have the ability to virtually raise your hand for the duration of the webinar, but you will not be acknowledged and your mic will remain muted until you are called on during the public comment period.
<https://www.lynnwoodwa.gov/files/sharedassets/public/city-council/business-meeting-agendas/raising-hand-in-zoom.pdf>
- **Public Comment Period:** Use “Raise Hand” to be called upon by the host. The host will unmute your mic and you will have the ability to share your comment. Each speaker is allowed up to five (5) minutes.
- **Use headphones/mic** for better sound quality and less background noise.

**CITY OF LYNNWOOD
PLANNING COMMISSION MINUTES
June 25, 2020 Meeting**

Commissioners Present:	Staff Present:
Chad Braithwaite, Chair	Ashley Winchell, Interim Planning Mgr.
Chris Eck, First Vice Chair	Kristen Holdsworth, Senior Planner
Layla Bush, Second Vice Chair	Ec Devt/Interim Comm Devt Director Kleitsch
Aaron Lum	George Hurst, Council Liaison
Adam Segalla	
Patrick Robinson	
Commissioners Absent:	
Michael Wojack	

Call to Order

The meeting was called to order by Chair Braithwaite at 6:30 p.m.

Approval of Minutes

1. January 12, 2020

Motion made by Chair Braithwaite, seconded by Commissioner Robinson, to approve the minutes of January 12, 2020. Motion passed unanimously.

2. February 12, 2020 (Joint Board and Commissions Meeting)

Motion made by Chair Braithwaite, seconded by Commissioner Robinson, to approve the minutes of February 12, 2020. Motion passed unanimously.

3. February 27, 2020

Motion made by Chair Braithwaite, seconded by Commissioner Robinson, to approve the minutes of February 27, 2020. Motion passed unanimously.

Citizen Comments

None

Work Session

1. Housing Action Plan

1 Senior Planner Kristen Holdsworth presented an overview of the
2 Lynnwood Housing Action Plan. She discussed two of Lynnwood's
3 relevant community visions of being a welcoming city that builds a healthy
4 and sustainable environment and being a city that is responsive to the
5 wants and needs of our citizens. The Mayor's Strategic Plan also
6 mentions being a safe, welcoming and livable city. She introduced
7 definitions of *housing affordability*, *cost-burdened households*, and
8 *severely cost-burdened households*, housing statistics in the City, existing
9 housing efforts, causes of national housing crisis, the purpose of the
10 Housing Action Plan (HAP), and steps to creating a HAP. A timeline for
11 developing the HAP and milestones were reviewed.

12
13 Staff is currently working on a report of existing conditions and needs.
14 There is a five-pronged approach for engagement including the following
15 strategies/audiences: general outreach and communications, community
16 and stakeholders, boards and commissions, city council, and regional
17 entities. Staff will be coming back to the Planning Commission for an
18 update on August 27 followed by continued public outreach.

19
20 Commission Comments and Questions:

21
22 First Vice Chair Eck expressed appreciation for the presentation and the
23 efforts to enlist input from people of color in the community. She asked
24 about improving visibility of these efforts. Senior Planner Holdsworth
25 indicated she could share the list of stakeholder groups and the public
26 engagement plan.

27
28 Second Vice Chair Bush asked if there are minutes or recordings of the
29 stakeholder meetings that are accessible to the public. Senior Planner
30 Holdsworth replied that there are summaries of notes from the meetings
31 that will be shared on the website, but there are no recordings in order to
32 maintain privacy of participants.

33
34 Chair Braithwaite requested that staff take into consideration the different
35 economic situations between renters and homeowners. Senior Planner
36 Holdsworth agreed.

37 38 **2. South Lynnwood Neighborhood Plan**

39
40 Interim Planning Manager Ashley Winchell provided an update of the
41 South Lynnwood Neighborhood Plan. The focus of Phase 1 was building
42 trust with community, identifying community leaders, strengthening social
43 connections, understanding needs, and placemaking of South Lynnwood
44 Park. Phase 2 goals are to establish a vision for South Lynnwood, identify
45 projects and policies to stabilize housing, provide opportunities for various
46 land uses, improve access to transit and non-motorized transportation,

1 and to serve as a model for other improvements throughout the City of
2 Lynnwood. She stressed that equity has been a pillar of the creation of
3 this plan. Public engagement is an important part of this plan, and right
4 now staff and the consultant are trying to figure out the best way to do
5 that.

6
7 Phase 2 themes/visions for the neighborhoods have been identified
8 through the Co-Design Committee, pre-engagement, and interviews with
9 community leaders. These include:

- 10 • Residents, businesses, and community partners work together to
11 create a vibrant community which celebrates diversity.
- 12 • Households families, community partners, and businesses are
13 preserved and stable.
- 14 • A healthy neighborhood which is home to safe walking networks,
15 parks, open spaces, and gathering spaces.
- 16 • Economic development progresses through employment
17 opportunities and access to social services.

18 Interim Planning Manager Winchell then discussed existing conditions and
19 needs for each theme. Next steps are drafting recommendations, meeting
20 with the Co-Design Committee, possibly holding an outdoor open house,
21 and coming up with final recommendations which will be presented to
22 Planning Commission and City Council. She discussed possible ways the
23 Planning Commission might be involved in implementing the Plan.

24 25 **Council Liaison Report**

26
27 Councilmember Hurst noted that the Council is also looking at housing issues in
28 the City.

29 30 **Planning Manager's Report**

31
32 Interim Planning Manager Winchell had the following comments:

- 33 • She reviewed current land use applications – another Chick-fil-A on
34 Highway 99 at 196th on Highway 99, the Legacy Alderwood Hotel near JC
35 Penney's, Lynnwood Place residential structure, and Sound Transit
36 temporary parking locations while the garage is being constructed.
- 37 • A temporary outdoor dining program is being worked on to assist local
38 restaurants.
- 39 • The FTA has awarded Sound Transit a \$2 million grant for the Everett Link
40 transit-oriented development pilot for ST3.
- 41 • There is a permit activity report attached to the Planning Commission
42 packet.

43
44 Economic Development/Interim Community Development Director Kleitsch had
45 the following comments:

- 1 • The City received federal money which is being used to develop a
2 business assistance program which launched this week. A community
3 assistance program is also forthcoming.
- 4 • The outdoor dining program is another step towards assisting local
5 businesses.
- 6 • He discussed a process improvement study for Development and
7 Business Services. The report on that is being finished, and Council will
8 receive an overview on July 6. Staff will also come to the Planning
9 Commission with the report.
- 10 • Staff is looking at doing a review and update of the City Center Plan.
- 11 • The Comprehensive Plan will be updated in 2023-2024.
- 12 • Edmonds Community College will have the opening of their STEM and
13 Nursing building in September. Triton Court will be opening on 68th across
14 from the college. These are both elements of the College District Plan.
- 15 • Staff is also looking at doing some updating of the mall area as a Regional
16 Growth Center.
- 17 • A lot of columns are going up in the City Center for ST2. A multifamily
18 project is also coming in that area.

19

20 **Commissioners' Comments**

21

22 Chair Braithwaite asked if there has been an agreed upon route for the ST3 line
23 through Lynnwood. Director Kleitsch explained that process begins this year, and
24 will take about four years.

25

26 **Adjournment**

27

28 The meeting was adjourned at 8:04 p.m.

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Chad Braithwaite, Chair

**CITY OF LYNNWOOD
PLANNING COMMISSION MINUTES
July 9, 2020 Meeting**

Commissioners Present:	Staff Present:
Chad Braithwaite, Chair	Ashley Winchell, Planning Manager
Chris Eck, First Vice Chair	David Mach, Engineering Manager
Layla Bush, Second Vice Chair	Sadia Faiza, Civil Engineer
Aaron Lum	David Kleitsch, Economic Devt. / Interim Comm. Devt. Director
Adam Segalla	
Patrick Robinson	George Hurst, Council Liaison
Michael Wojack	
Commissioners Absent:	
None	

Call to Order

The meeting was called to order by Chair Braithwaite at 6:30 p.m.

Approval of Minutes

None

Public Hearing

1. Capital Facilities Plan / Transportation Improvement Plan

Engineering Manager Mach and Civil Engineer Sadia Faiza gave a presentation outlining the proposed Capital Facilities Plan.

Commissioner Eck asked if there was a prioritization system. Engineering Manager Mach explained that it was different for each program, but there is a process they go through. It's a very dynamic process where they are trying to balance limited funds. He noted that some projects have been on the list for ten years, and the City is committed to finishing them. Some of it has to do with the budget and grant opportunities.

Chair Braithwaite noted this is the first time the Capital Facilities Plan has included things like IT infrastructure. He asked why this change had occurred. Engineering Manager Mach explained that in previous years the Transportation Improvement Plan had been brought to the Planning Commission, but more recently the Capital Facilities Plan has come to the Planning Commission, and this includes Utilities. The reasoning has to do

1 with streamlining the processes. Chair Braithwaite commented that the
2 information in the presentation in years past was easier to understand and
3 gave more information with the mapping. Engineering Manager Mach
4 explained that this year's format had to do with staffing limitations, but they
5 could add the mapping back in if desired.

6
7 Commissioner Wojack concurred with the value of the mapping especially
8 with transportation projects. He asked how the current budget has been
9 impacted by revenues. Engineering Manager Mach replied that the City is
10 still struggling to determine the financial impacts of COVID including the
11 gas tax, utility revenues, etc. but there will definitely be fewer projects
12 completed.

13
14 Commissioner Bush asked how the Level of Service was defined for the
15 Parks projects. Engineering Manager Mach indicated he could connect
16 her to Parks & Recreation Deputy Director Olson for more information
17 about Parks projects, but explained how Level of Service for roads is
18 determined.

19
20 Public Comments.

21
22 The public comment portion of the public hearing was opened, and public
23 comments were solicited.

24
25 Teodora Popescu asked via chat message why the 44th Avenue West / I-5
26 underpass improvement project was no longer on the Lynnwood website.
27 David Mach wasn't sure why it wasn't on the website. He explained that
28 the project would enhance the current entrance to the City and improve
29 non-motorized access under the freeway. The City hopes to implement
30 this in the next four years before light rail comes to Lynnwood.

31
32 Seeing no further comments, the public comment portion of the hearing
33 was closed.

34
35 Chair Braithwaite requested an update on the overpass over I-5
36 connecting 33rd Avenue West/Alderwood Way Parkway and Poplar Way.
37 Engineering Manager Mach explained that the Poplar Way extension
38 bridge is the most expensive roadway project in the list and has been on
39 the list since 2004. It is fully funded on design and right-of-way phases
40 and both of those phases are nearly complete. The project needs about
41 \$35 million in construction dollars to complete the rest of the project. Staff
42 is pursuing federal and local lobbying as aggressively as possible.

43
44 Commissioner Wojack commended staff for forward thinking about leaving
45 space in the wall for the bridge supports. Engineering Manager Mach
46 reviewed the history of that section.

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Chair Braithwaite expressed concern about the cost of some of the IT projects and asked for more information. Engineering Manager Mach offered to get him in touch with the right people in IT. He pointed out that this is a six-year list and there will be a more refined list with each project as it happens.

Commissioner Robinson was also interested in learning more about the IT projects. Engineering Manager Mach indicated that concerns about the high costs could be shared in a statement to the Council along with a request for more information if desired. Chair Braithwaite spoke in support of that idea.

Motion made by Chair Braithwaite, seconded by Commissioner Eck, to approve the Capital Facilities Plan for 2021-2026 with a recommendation to the City Council and appropriate staff to review the IT capital items with greater detail.

Chair Braithwaite thanked staff for the presentation. He encouraged staff to consider adding the map back in to the presentation if possible. He also suggested that the IT team could provide more information for those items.

Motion passed unanimously (7-0).

Work Session

None

Other Business

- 1. Development and Business Services Process Improvements

Economic Development/Interim Community Development Director Kleitsch made a presentation on an organizational review and efficiency study of the four functions co-located at Development and Business Services. This includes the Community Development Department, Economic Development Department, Public Works Development Engineering, and Fire Prevention. He gave some background on this process and then reviewed project results of the efficiency study conducted by Strategica. A roster of performance and outcome measures was developed to track strategic implementation through measures of efficiency and outcome measures. The Strategica group also looked at organizational structure. The group found that the DBS structure as of fall 2019 was hindering performance and mission attainment.

1 As a result of their work, Strategica recommended the following:

- 2 • Unity of command for all DBS functions
- 3 • Public Works (renamed Development Engineering) and FMO staff
- 4 under direct supervision of Manager of Permitting Services
- 5 • Oversight and supervision of all plan review workflow is
- 6 consolidated under Deputy Director of Permitting Services/Building
- 7 Official
- 8 • Vacant positions either filled or eliminated (with funding used
- 9 elsewhere)
- 10 • New positions in Planning and manager made permanent
- 11 • New Management Analyst and Applications Analyst positions.
- 12 Code Enforcement renamed Community Standards and
- 13 Assistance. Additional position to oversee all cases that are not in
- 14 litigation or NOV status.
- 15 • DBS is relocated to City Hall campus to be collated with other City
- 16 functions.
- 17 • Net addition of 7 new positions in DBS.

18
19 Director Kleitsch reviewed the proposed structure of DBS, other
20 recommendations by the consultant, and the adopted DBS Strategic Plan.
21 He noted that all the documents are available online.

22
23 Comments and Questions:

24
25 Commissioner Eck asked Director Kleitsch if there were any
26 recommendations that he or staff did not agree with. Director Kleitsch
27 replied that there may be some small things, but in general, it's a pretty
28 good report. Commissioner Eck commented that the report looks very
29 thorough. She encouraged staff to work closely with HR on the change
30 management part of this and to support team morale. Director Kleitsch
31 concurred. He explained that it has been difficult for a while, but staff has
32 been very engaged in this process and is excited that this is happening.
33 They are working closely with HR. Planning Manager Winchell discussed
34 the change management training staff had and the focus on the "why" of
35 what they are doing. Commissioner Eck expressed appreciation for the
36 customer service and efficiency focus of this.

37
38 Chair Braithwaite asked if they have had difficulty filling positions with
39 qualified people. Director Kleitsch discussed their commitment to focus
40 hiring which has gone very well. Chair Braithwaite then asked if they have
41 considered hiring outside consultants for some of the large complex
42 projects as a way to mitigate the expertise issue. Director Kleitsch replied
43 that they do some of that already in relationship to heavy structural and
44 things of that nature. They also have the ability to go out and get
45 specialized expertise as needed. Chair Braithwaite asked how realistic the
46 recommendation to move DBS to the main city campus is. Director

1 Kleitsch replied that this recommendation is one that needs refinement.
2 The City has embarked on a space needs analysis and is continuing to
3 look at options. Chair Braithwaite suggested considering a new office
4 building in the City Center where the City could be a key anchor tenant.
5 He also noted that the comment about the inefficiency of the IT software
6 from 2009 confirms his concerns about the IT budget spending. He
7 stressed the importance of picking something that will be useful for a long
8 period of time. Director Kleitsch concurred.

9
10 Commissioner Wojack asked about the timeline and budget for bringing
11 on the seven new people. Director Kleitsch explained they are hiring for
12 slots that already exist and are currently vacant, but they haven't hired any
13 of the new hires. There will be an attempt to hire these positions internally,
14 but budget conversations are just beginning. Commissioner Wojack
15 explained how Boeing has handled their administrative support positions.

16
17 Commissioner Robinson asked about the status of bringing Public Works
18 and the Fire Authority under DBS. Director Kleitsch explained that Public
19 Works is already located in DBS, but their name is changing to
20 Development Engineering. The Fire Authority is its own entity, but the City
21 will work collaboratively with them. Commissioner Robinson referred to the
22 current permitting system struggles and suggested documenting more
23 detailed information about the selection and implementation process of the
24 next system as they go through the process. Director Kleitsch concurred
25 and reviewed the history of the current system and the RFP process for
26 the next system. He expressed confidence that they would not repeat the
27 same mistake.

28 29 **Council Liaison Report**

30
31 Councilmember Hurst had the following comments:

- 32 • He was happy to hear about the improvements at DBS.
- 33 • The Capital Facilities Plan looks great. Now they just need to find the
34 money.
- 35 • Council is in the process of trying to figure out how to make up for the
36 shortfalls (approximately \$3.2 million) that are anticipated in revenue.
- 37 • He expressed appreciation to the Planning Commission for their work.

38 39 **Planning Manager's Report**

40
41 Planning Manager Winchell commented that staff is working on getting a joint
42 meeting with Human Services and Diversity, Equity, and Inclusion in late August
43 or early September to talk about the South Lynnwood Plan. Staff is also starting
44 to look at the work plan for the Comprehensive Plan.

45 46 **Commissioners' Comments**

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Chair Braithwaite noted he would not be in attendance for the next meeting. Planning Manager Winchell asked any other commissioners to let her know if they would not be able to attend as there are two public hearings on the agenda, and they will need a quorum.

Adjournment

The meeting was adjourned at approximately 8:30 p.m.

Chad Braithwaite, Chair

**Topic: 2020 Surface Water
Management Comprehensive Plan****Staff Report**

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

Staff Contact: Jared Bond, Public Works Department

Introduction:

The City of Lynnwood uses an extensive system of drainage pipes and ditches to convey runoff to receiving waters, including streams, lakes, and Puget Sound, and to prevent and to prevent and minimize damage to private properties, city streets, and other infrastructure. Due to extensive alteration of the natural landscape in most areas of Lynnwood, the amount of runoff that occurs during larger storm events is substantial, and runoff during all storm events carries a variety of pollutants to receiving waters. The City is faced with the challenge of conveying stormwater runoff safely and cost-effectively, while preventing or minimizing adverse high-flow impacts (erosion, flooding, and sediment deposition) and water quality degradation in receiving waters. In 1991, the City established a Surface Water Utility to create a funding source to address stormwater and receiving water management issues citywide. The Surface Water Utility is funded by residential, commercial, and industrial ratepayers. State and federal regulations related to stormwater have evolved over the last 15 years, making it difficult to address all stormwater-related challenges while balancing the costs borne by utility ratepayers. The City must implement and continually improve upon a comprehensive plan for stormwater management to ensure that the program has the resources it needs to serve the community.

The purpose of this plan:

This plan is a major revision to the City's Surface Water Management Comprehensive Plan that was last updated in 2009. This plan sets a course for stormwater programs and capital projects for years to come and addresses current and anticipated regulatory requirements, future land use designations, emerging stormwater management technologies, existing flooding and water quality problems, and the resources needed for the City to fully implement this plan.

Plan Organization:

This plan is presented in five sections:

1- Stormwater Goals and Policies:

Identifies the guiding principles of the SWMP.

2- Background:

Characterizes the study area and includes a map of drainage basins within the City. Applicable policies, regulations, and planning environment are also summarized in the Background section. The contents of the Background section, along with the Stormwater Goals and Policies, inform the selection of future projects, programs, and policies for the SWMP.

3- Surface Water Management Program:

Recommendations describes the programs, policies, and resource needs of the SWMP.

4- Capital Improvement Program:

Identifies stormwater capital projects and their associated priorities

5- Plan Implementation:

Identifies a recommended suite of projects, programs, and policies, along with their associated resource needs, utility rate increase, and schedule.

Action and Scheduling:

Public involvement took place through an online open house for a period of one month between May 15, 2020 and June 15, 2020. The SEPA public process is currently underway and will continue until City Council adoption which is anticipated in early August of 2020.

Public comments and testimony will be reviewed and considered by both staff and the City Council. Plan adoption is scheduled for early August 2020. Internal City review and State Environmental Policy Act (SEPA) review are scheduled to coincide with the public review period.

Attachment(s):

The plan can be downloaded at <https://www.lynnwoodwa.gov/Government/Departments/Public-Works/Engineering-Construction/Public-Projects-and-Programs/Water-Sewer-Storm-Utility-Projects/Surface-Water-Management-Comprehensive-Plan-Update>



**Topic: Flood Hazard Area Code
Amendments (Chapter 16.46 LMC)**

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

Staff Report

Staff Contact: Derek Fada, Environmental and Surface Water Supervisor, Public Works

Summary

The purpose of this public hearing is to introduce proposed legislation for updating Lynnwood Municipal Code 16.46, Flood Hazard Area Regulations. FEMA has adopted and made effective a new Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRM). The adoption of the FIS, FIRM, and updates to Lynnwood's Flood Hazard Area Code are required for continued participation in FEMA's Flood Insurance Program.

The briefing will discuss reasons for the update, the proposed updates, and how they will affect the City of Lynnwood.

Action

Hold public hearing and recommend adoption to the City Council.

Background

The National Flood Insurance Program (NFIP) was established in 1968 with the passing of the Nation Flood Insurance Act.

- NFIP enables property owners in participating communities to purchase flood insurance as protection against flood losses.
- NFIP requires state and local governments to enforce floodplain management ordinances that aim to reduce future flood damage.
- Lynnwood has participated for over 30 years.

FEMA manages the NFIP and periodically updates their maps and rates, thus requiring jurisdictions to update their regulations to meet new standards and requirements.

Previous Actions

On June 8, 2020 Lynnwood City Council adopted emergency interim Flood Hazard Area regulations to remain a participant in FEMA's Flood Insurance Program. On July 27, 2020, a public hearing was held to review the adopted Interim Flood Hazard Area Ordinance.

Attachments

1. Lynnwood Flood Hazard Area Regulation Update Presentation
2. Strikeout and Underline Copy of Updated Ordinance
3. Lynnwood Flood Hazard Area Regulations – July 2020 Draft

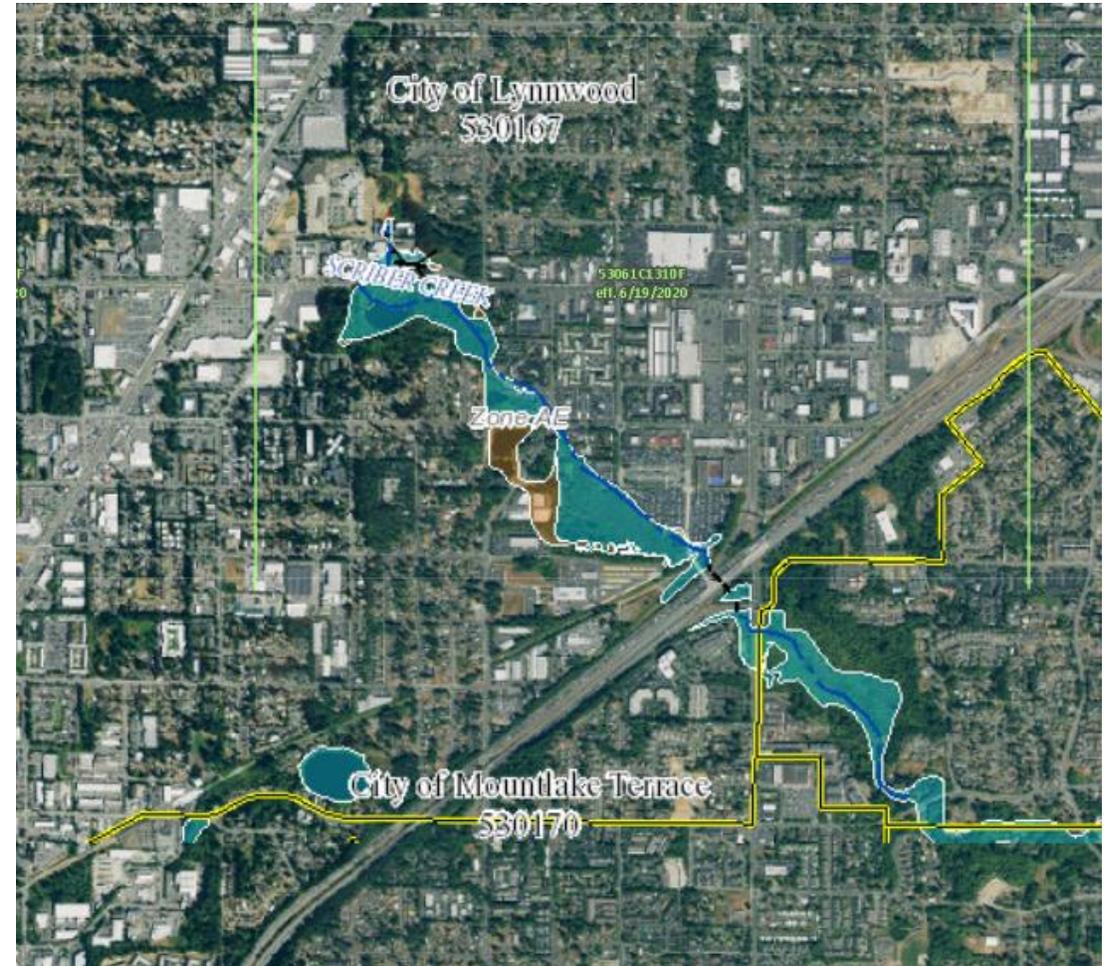


City of Lynnwood

2020 Flood Hazard Area Regulations

FEMA National Flood Insurance Program (NFIP)

- Established in 1968
- Lynnwood has participated for over 30 years.
- New Flood Insurance Rate Map and Flood Insurance Study effective June 19th, 2020.



Significant Changes

- Coastal Floodplain Zone VE – Puget Sound
- Added definitions:
 - Alteration of watercourse
 - Coastal high hazard area
 - Flooding (mudslides/landslides)
 - Floodplain or flood prone area
 - Floodplain administrator
 - Flood proofing
 - Functionally dependent use
 - Highest adjacent grade
 - Historic Structure
 - Mean sea level





How this affects Lynnwood...



ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, AMENDING LMC 16.46, FLOOD HAZARD REGULATIONS; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR SUMMARY PUBLICATION

WHEREAS, the City of Lynnwood has areas designated by the Federal **Emergency Management Insurance Administrator** as Special Flood Hazard Areas inundated by a 100-year flood; and

WHEREAS, the City of Lynnwood participates in the National Flood Insurance Program, allowing those within the City to purchase flood insurance, should they wish; and

WHEREAS, the City of Lynnwood desires to continue to participate in the National Flood Insurance Program, and must update its Flood Hazard Regulations in order to do so; and

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

Section 1: Purpose. The purpose of this ordinance is to amend the Lynnwood Municipal Code Chapter 16.46.

Section 2: Amendments. Section 16.46 is hereby amended to read:

**Chapter 16.46
FLOOD HAZARD AREA REGULATIONS**

Sections:

- 16.46.010 Statement of purpose.**
- 16.46.020 Definitions.**
- 16.46.030 General provisions.**
- 16.46.040 Administration.**
- 16.46.050 Provisions for flood hazard protection.**
- 16.46.060 Severability.**

16.46.010 Statement of purpose.

A. It is the purpose of this legislation to promote the public health, safety, and general welfare, and to avoid or abate public nuisances, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- 44 1. Protect human life and health;
45 2. Minimize expenditure of public money and costly flood control projects;
46 3. Minimize the need for rescue and relief efforts associated with flooding and generally
47 undertaken at the expense of the general public;
48 4. Minimize prolonged business interruptions;
49 5. Minimize damage to public facilities and utilities such as water and gas mains,
50 electric, telephone and sewer lines, streets, and bridges located in areas of special flood
51 hazard;
52 6. Help maintain a stable tax base by providing for the sound use and development of
53 areas of special flood hazard so as to minimize future flood blight areas;
54 7. Ensure that potential buyers are notified that property is in an area of special flood
55 hazard; and
56 8. Ensure that those who occupy the areas of special flood hazard assume responsibility
57 for their actions.

58 B. Methods of Reducing Flood Losses. In order to accomplish its purposes, this legislation
59 includes methods and provisions for:

- 60 1. Restricting or prohibiting uses which are dangerous to health, safety, and property
61 due to water or erosion hazards, or which result in damaging increases in erosion or in
62 flood heights or velocities;
63 2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be
64 protected against flood damage at the time of initial construction;
65 3. Controlling the alteration of natural flood plains, stream channels, and natural
66 protective barriers, which help accommodate or channel flood waters;
67 4. Controlling filling, grading, dredging, and other development which may increase
68 flood damage; and
69 5. Preventing or regulating the construction of flood barriers which will unnaturally
70 divert flood waters or which may increase flood hazards in other areas. (Ord. 2045 § 7,
71 1995; Ord. 1462 § 1, 1985)

72

73 **16.46.020 Definitions.**

74 Unless specifically defined below, words or phrases used shall be interpreted so as to give them
75 the meaning they have in common usage and to give this legislation its most reasonable
76 application.

77 “Alteration of watercourse” means any action that will change the location of the channel
78 occupied by water within the banks of any portion of a riverine waterbody.

79 “Appeal” means a request for a review of the director of public work’s interpretation of any
80 provision in this chapter or a request for a variance.

81 “Appeal board” means a three-member board appointed by the mayor to hear and determine
82 appeals.

83 “Area of shallow flooding” means a designated AO or AH zone on the Flood Insurance Rate Map
84 (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not
85 exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be
86 evident. AO is characterized as sheet flow, and AH indicates ponding.

87 “Area of special flood hazard” means the land in the flood plain within a community subject to
88 a one percent or greater chance of flooding in any given year. Designation on maps always
89 includes the letters “A” or “V”.

90 “Base flood” means the flood having a one percent chance of being equaled or exceeded in any
91 given year (also referred to as the "100-year flood"). ~~Designated on flood insurance rate maps~~
92 ~~by letters A or V.~~

93 “Basement” means any area of the building having its floor subgrade (below ground level) on all
94 sides.

95 “Breakaway wall” means a wall that is not part of the structural support of the building and is
96 intended through its design and construction to collapse under specific lateral loading forces,
97 without causing damage to the elevated portion of the building or supporting foundation
98 system.

99 “Coastal high hazard area” means an area of special flood hazard extending from offshore to
100 the inland limit of a primary frontal dune along an open coast and any other area subject to
101 high velocity wave action from storms or seismic sources.

102 “Critical facility” means a facility for which even a slight chance of flooding might be too great.
103 Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire
104 and emergency response installations, installations which produce, use, or store hazardous
105 materials or hazardous waste.

106 “Development” means any manmade change to improved or unimproved real estate, including
107 but not limited to buildings or other structures, mining, dredging, filling, grading, paving,
108 excavation or drilling operations, or storage of equipment or materials located within the area
109 of special flood hazard.

110 “Elevated building” means for insurance purposes, a non-basement building which has its
111 lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers,
112 pilings, or columns.

113 “Existing manufactured home park or subdivision” means a manufactured home park or
114 subdivision for which the construction of facilities for servicing the lots on which the
115 manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the
116 construction of streets, and either final site grading or the pouring of concrete pads) is
117 completed before the effective date of the adopted flood plain management regulations.

118 “Expansion to an existing manufactured home park or subdivision” means the preparation of
119 additional sites by the construction of facilities for servicing the lots on which the manufactured
120 homes are to be affixed (including the installation of utilities, the construction of streets, and
121 either final site grading or the pouring of concrete pads).

122 “Flood” or “flooding” means:

123 1. A general and temporary condition of partial or complete inundation of normally dry
124 land areas from:

125 a. The overflow of inland or tidal waters; and/or
126 b. The unusual and rapid accumulation of runoff of surface waters from any
127 source.

128 c. Mudslides (i.e., mudflows) which are proximately caused by flooding as
129 defined in paragraph (1)(b) of this definition and are akin to a river of liquid and

130 flowing mud on the surfaces of normally dry land areas, as when earth is carried
131 by a current of water and deposited along the path of the current.

132 2. The collapse or subsidence of land along the shore of a lake or other body of water as
133 a result of erosion or undermining caused by waves or currents of water exceeding
134 anticipated cyclical levels or suddenly caused by an unusually high water level in a
135 natural body of water, accompanied by a severe storm, or by an unanticipated force of
136 nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and
137 unforeseeable event which results in flooding as defined in paragraph (1)(a) of this
138 definition.

139 ~~“Flood insurance elevation study” (FIS) means the official report provided by the Federal~~
140 ~~Insurance Administration that includes flood profile, the flood insurance rate maps, and the~~
141 ~~water surface elevation of the base flood and~~ means the examination, evaluation and
142 determination of flood hazards and, if appropriate, corresponding water surface elevations, or
143 an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related
144 erosion hazards. Also known as Flood Insurance Study (FIS).

145 “Flood insurance rate map (FIRM)” means the official map on which the Federal Insurance
146 ~~Administration~~ Administrator has delineated both the areas of special flood hazards and the
147 risk premium zones applicable to the community.

148 “Floodplain or flood prone area” means any land area susceptible to being inundated by water
149 from any source. See “Flood or flooding.”

150 “Floodplain administrator” the community official designated by title to administer and enforce
151 the floodplain management regulations.

152 “Flood proofing” means any combination of structural and nonstructural additions, changes, or
153 adjustments to structures which reduce or eliminate risk of flood damage to real estate or
154 improved real property, water and sanitary facilities, structures, and their contents. Flood
155 proofed structures are those that have the structural integrity and design to be impervious to
156 floodwater below the Base Flood Elevation.

157 “Floodway” means the channel of a river or other watercourse and the adjacent land areas that
158 must be reserved in order to discharge the base flood without cumulatively increasing the
159 water surface elevation more than a designated height.

160 “Functionally dependent use” means a use which cannot perform its intended purpose unless it
161 is located or carried out in close proximity to water. The term includes only docking facilities,
162 port facilities that are necessary for the loading and unloading of cargo or passengers, and ship
163 building and ship repair facilities, and does not include long term storage or related
164 manufacturing facilities.

165 “Highest adjacent grade” The highest natural elevation of the ground surface prior to
166 construction next to the proposed walls of a structure.

167 “Historic structure” means any structure that is:

168 1. Listed individually in the National Register of Historic Places (a listing maintained by
169 the Department of Interior) or preliminarily determined by the Secretary of the Interior
170 as meeting the requirements for individual listing on the National Register;

171 2. Certified or preliminarily determined by the Secretary of the Interior as contributing
172 to the historical significance of a registered historic district or a district preliminarily
173 determined by the Secretary to qualify as a registered historic district;

- 174 3. Individually listed on a state inventory of historic places in states with historic
175 preservation programs which have been approved by the Secretary of Interior; or
176 4. Individually listed on a local inventory of historic places in communities with historic
177 preservation programs that have been certified either:
178 a. By an approved state program as determined by the Secretary of the Interior,
179 or
180 b. Directly by the Secretary of the Interior in states without approved programs.

181 “Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An
182 unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or
183 storage, in an area other than a basement area, is not considered a building’s lowest floor;
184 provided, that such enclosure is not built so as to render the structure in violation of the
185 applicable non-elevation design requirements of this chapter found at LMC 16.46.050(B)(1)(b).

186 “Manufactured home” means a structure, transportable in one or more sections, which is built
187 on a permanent chassis and is designed for use with or without a permanent foundation when
188 connected to the required utilities. For flood plain management purposes, the term
189 “manufactured home” also includes park trailers, travel trailers, and other similar vehicles
190 placed on a site for greater than 180 consecutive days. For insurance purposes the term
191 “manufactured home” does not include park trailers, travel trailers, and other similar vehicles.
192 The term “manufactured home” does not include a recreational vehicle.

193 “Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land
194 divided into two or more manufactured home lots for rent or sale.

195 “Mean Sea Level” for purposes of the National Flood Insurance Program, the vertical datum to
196 which Base Flood Elevations shown on a community's Flood Insurance Rate Map are
197 referenced.

198 “New construction” means for the purpose of determining insurance rates, structures for which
199 the start of construction commenced on or after the effective date of an initial Flood Insurance
200 Rate Map or after December 31, 1974, whichever is later, and includes any subsequent
201 improvements to such structures. For floodplain management purposes, new construction
202 means structures for which the start of construction commenced on or after the effective date
203 of a floodplain management regulation adopted by a community and includes any subsequent
204 improvements to such structures. ~~the ordinance codified in this chapter.~~

205 “New manufactured home park or subdivision” means a manufactured home park or
206 subdivision for which the construction of facilities for servicing the lots on which the
207 manufactured homes are to be affixed (including at a minimum, the installation of utilities, the
208 construction of streets, and either final site grading or the pouring of concrete pads) is
209 completed on or after the effective date of adopted flood plain management regulations.

210 “Recreational vehicle” means a vehicle which is:

- 211 1. Built on a single chassis;
- 212 2. Four hundred square feet or less when measured at the largest horizontal projection;
- 213 3. Designed to be self-propelled or permanently towable by a light duty truck; and
- 214 4. Designed primarily not for use as a permanent dwelling but as temporary living
215 quarters for recreational, camping, travel, or seasonal use.

216 “Start of construction” includes substantial improvement, and means the date the building
217 permit was issued, provided the actual start of construction, repair, reconstruction, placement

218 or other improvement was within 180 days of the permit date. The actual start means either
219 the first placement of permanent construction of a structure on a site, such as the pouring of
220 slab or footings, the installation of piles, the construction of columns, or any work beyond the
221 stage of excavation; or the placement of a manufactured home on a foundation. Permanent
222 construction does not include land preparation, such as clearing, grading, and filling; nor does it
223 include the installation of streets and/or walkways; nor does it include excavation for a
224 basement, footings, piers, or foundations, or the erection of temporary forms; nor does it
225 include the installation on the property of accessory buildings, such as garages or sheds not
226 occupied as dwelling units or not as part of the main structure. For a substantial improvement,
227 the actual start of construction means the first alteration of any wall, ceiling, floor, or other
228 structural part of a building, whether or not that alteration affects the external dimensions of
229 the building.

230 "Structure" means a walled and roofed building or manufactured home including a gas or liquid
231 storage tank that is principally above ground.

232 "Substantial damage" means damage of any origin sustained by a structure whereby the cost of
233 restoring the structure to its before-damaged condition would equal or exceed 50 percent of
234 the market value of the structure before the damage occurred.

235 "Substantial improvement" means any ~~repair~~-reconstruction, rehabilitation, addition or
236 improvement of a structure, the cost of which equals or exceeds 50 percent of the market value
237 of the structure before the start of construction of the improvement. This term includes
238 structures which have incurred substantial damage, regardless of the actual repair work
239 performed. The term does not, however, include, either:

- 240 ~~1. Before the improvement or repair is started; or~~
241 ~~2. If the structure has been damaged and is being restored, before the damage~~
242 ~~occurred. For the purposes of this definition, "substantial improvement" is~~
243 ~~considered to occur when the first alteration of any wall, ceiling, floor, or other~~
244 ~~structural part of the building commences, whether or not that alteration affects the~~
245 ~~external dimensions of the structure.~~

246 ~~The term does not, however include either:~~

- 247 1. Any project for improvement of a structure to ~~comply~~-correct existing violations of
248 state or local health, sanitary, or safety code specifications that have been previously
249 identified by the local code enforcement official and which are ~~solely~~ the minimum
250 necessary to assure safe living conditions; or
251 2. Any alteration of a historic structure ~~listed on the National Register of Historic Places~~
252 ~~or a State Inventory of Historic Places.~~ provided that the alteration will not preclude the
253 structure's continued designation as a historic structure.

254 "Variance" means a grant of relief from the requirements of this legislation which permits
255 construction in a manner that would otherwise be prohibited by this chapter.

256 "Water dependent" means a structure for commerce or industry which cannot exist in any
257 other location and is dependent on the water by reason of the intrinsic nature of its operations.
258 (Ord. 2274 § 1, 1999; Ord. 1916 § 1, 1992; Ord. 1701 § 1, 1989; Ord. 1462 § 2, 1985)

259

260 **16.46.030 General provisions.**

261 A. Lands to Which This Chapter Applies. This legislation shall apply to all areas of special flood
262 hazards within the jurisdiction of the city of Lynnwood.

263 B. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard
264 identified by the Federal Insurance ~~Administration~~ Administrator in a scientific and engineering
265 report entitled "The Flood Insurance Study for Snohomish County, Washington and
266 Incorporated Areas," dated ~~November 9, 1999~~ June 19, 2020, as amended, with accompanying
267 flood insurance rate maps as amended, are hereby adopted by reference and declared to be
268 part of this chapter. The flood insurance study and the flood insurance rate map are on file at
269 the city of Lynnwood public works department. The best available information for flood hazard
270 area identification as outlined in LMC 16.46.040(C)(2) shall be the basis for regulation until a
271 new FIRM is issued which incorporates the data utilized under LMC 16.46.040(C)(2).

272 C. Penalties for Noncompliance. No structure or land shall hereafter be constructed, located,
273 extended, converted, or altered without full compliance with the terms of this chapter and
274 other applicable regulations. Violation of the provisions of this chapter by failure to comply
275 with any of its requirements (including violations of conditions and safeguards established in
276 connection with conditions) shall constitute a misdemeanor. Any person who violates this
277 chapter or fails to comply with any of its requirements shall upon conviction thereof be fined
278 not more than \$500.00 or imprisoned for not more than 90 days, or both, for each violation,
279 and in addition shall pay all costs and expenses involved in the case. Nothing herein contained
280 shall prevent the city of Lynnwood from taking such lawful action as is necessary to prevent or
281 remedy any violation.

282 D. Abrogation and Greater Restrictions. This legislation is not intended to repeal, abrogate, or
283 impair any existing easements, covenants, or deed restrictions. However, where this chapter
284 and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever
285 imposes the more stringent restrictions shall prevail.

286 E. Interpretation. In the interpretation and application of this legislation, all provisions shall be:

- 287 1. Considered as minimum requirements;
- 288 2. Liberally construed in favor of the governing body; and
- 289 3. Deemed neither to limit nor repeal any other powers granted under law.

290 F. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is
291 considered reasonable for regulatory purposes and is based on scientific and engineering
292 considerations. Larger floods can and will occur on rare occasions. Flood heights may be
293 increased by manmade or natural causes. This legislation does not imply that land outside the
294 areas of special flood hazards or uses permitted within such areas will be free from flooding or
295 flood damages. This legislation shall not create liability on the part of the city of Lynnwood, any
296 officer or employee thereof, or the Federal Insurance Administration, for any flood damages
297 that result from the reliance on this legislation or any administrative decision lawfully made
298 thereunder. (Ord. 2274 § 2, 1999; Ord. 1916 § 2, 1992; Ord. 1701 § 2, 1989; Ord. 1462 § 3,
299 1985)

300

301 **16.46.040 Administration.**

302 A. Establishment of Development Permit.

- 303 1. Development Permit Required. A development permit shall be obtained before
304 construction or development begins within any area of special flood hazard established

305 in LMC 16.46.030 (B). The permit shall be for all structures including manufactured
306 homes, as set forth in LMC 16.46.020, Definitions, and for all development including fill
307 and other activities, also as set forth in LMC 16.46.020, Definitions.

308 2. Application for Development Permit. Application for a development permit shall be
309 made on forms furnished by the city of Lynnwood and may include but not be limited
310 to: plans in duplicate drawn to scale showing the nature, location, dimensions, and
311 elevations of the area in question; existing or proposed structures, fill, storage or
312 materials, drainage facilities, and the location of the foregoing. Specifically, the
313 following information is required:

- 314 a. Proposed elevation in relation to mean sea level, of the lowest floor (including
315 basement) of all structures;
- 316 b. Proposed elevation in relation to mean sea level to which any structure will be
317 floodproofed;
- 318 c. Certification by a registered professional engineer or architect that the
319 floodproofing methods for any nonresidential structure meet the floodproofing
320 criteria in LMC 16.46.050(B)(2); and
- 321 d. Description of the extent to which a watercourse will be altered or relocated
322 as a result of proposed development.

323 ~~e. No development permit will be issued in Zones V or VE.~~

324 B. Designation of the Public Works Director. The city director of public works or his designee is
325 hereby appointed to administer, ~~and~~ implement and enforce this legislation by granting or
326 denying development permit applications in accordance with its provisions.

327 C. Duties and Responsibilities of the Public Works Director. Duties of the director of public
328 works shall include, but not be limited to:

329 1. Permit Review.

- 330 a. Review all development permits to determine that the permit requirements of
331 this chapter have been satisfied;
- 332 b. Review all development permits to determine that all necessary permits have
333 been obtained from those federal, state, or local governmental agencies from
334 which prior approval is required;
- 335 c. Review all development permits to determine the site is reasonably safe from
336 flooding;
- 337 d. Review all development permits to determine if the proposed development is
338 located in the floodway. If located in the floodway, assure that the
339 encroachment provisions of LMC 16.46.050(C)(1) are met.

340 2. Use of Other Base Flood Data. When base flood elevation data has not been provided
341 in accordance with LMC 16.46.030(B), Basis for Establishing the Areas of Special Flood
342 Hazard, the public works director shall obtain, review, and reasonably utilize any base
343 flood elevation and floodway data available from a federal, state, or other source, in
344 order to administer LMC 16.46.050(B), Specific Standards, and 16.46.050 (C), Floodways.

345 3. Information to be Obtained and Maintained.

- 346 a. ~~Where base flood elevation data is provided through the Flood Insurance~~
347 ~~Study or required as in subsection (C)(2) of this section, O~~ obtain and record
348 maintain the actual (as-built) elevation ~~(in relation to mean sea level)~~ of the

349 lowest floor, including basement, of all new or substantially improved structures,
350 and whether or not the structure contains a basement;
351 b. For all new or substantially improved floodproofed structures:
352 i. Verify and record the actual elevation ~~(in relation to mean sea level)~~ to
353 which the structure was floodproofed; and
354 ii. Maintain the floodproofing certifications required in subsection
355 (A)(2)(c) of this section;
356 c. Maintain for public inspection all records pertaining to the provisions of this
357 legislation.

358 4. Alteration of Watercourses.

359 a. Notify adjacent communities and the Washington State Department of
360 Ecology prior to any alteration or relocation of a watercourse, and submit
361 evidence of such notification to the Federal Insurance ~~Administration~~
362 Administrator;
363 b. ~~Require~~ Assure that the ~~that maintenance is provided within the altered or~~
364 ~~relocated portion of said watercourse so that the~~ flood-carrying capacity ~~is not~~
365 ~~diminished~~ of the altered or relocated portion of said watercourse is maintained.

366 5. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact
367 location of the boundaries of the areas of special flood hazards (for example, where
368 there appears to be a conflict between a mapped boundary and actual field conditions).
369 The person contesting the location of the boundary shall be given a reasonable
370 opportunity to appeal the interpretation as provided in subsection (D) of this section.

371 6. Base Flood Elevations may increase or decrease resulting from physical changes
372 affecting flooding conditions. As soon as practicable, but not later than six months after
373 the date such information becomes available, the Floodplain Administrator shall notify
374 the Federal Insurance Administrator of the changes by submitting technical or scientific
375 data in accordance with Volume 44 Code of Federal Regulations Section 65.3. Such a
376 submission is necessary so that upon confirmation of those physical changes affecting
377 flooding conditions, risk premium rates and floodplain management requirements will
378 be based upon current data.

379 7. Notify the Federal Insurance Administrator in writing of acquisition by means of
380 annexation, incorporation or otherwise, of additional areas of jurisdiction

381 D. Variance Procedure.

382 1. Appeal Board. The mayor shall appoint members to the three-member appeal board
383 as needed. Members shall have the educational and mechanical background and
384 experience to hear and determine appeals arising from this legislation.

385 a. The appeal board shall hear and decide appeals and requests for variances
386 from the requirements of this legislation;

387 b. The appeal board shall hear and decide appeals when it is alleged there is an
388 error in any requirement, decision or determination made by the director of
389 public works in the enforcement of this legislation;

390 c. Those aggrieved by the decision of the appeal board may appeal such decision
391 to the Snohomish County superior court as provided by law;

392 d. In passing upon such applications, the appeal board shall consider all technical
393 evaluations, all relevant factors, standards specified in other sections of this
394 legislation; and

- 395 i. The danger that materials may be swept onto other lands to the injury
396 of others;
- 397 ii. The danger to life and property due to flooding or erosion damage;
- 398 iii. The susceptibility of the proposed facility and its contents to flood
399 damage and the effect of such damage on the individual owner;
- 400 iv. The importance of the services provided by the proposed facility to
401 the community;
- 402 v. The necessity to the facility of a waterfront location, where applicable;
- 403 vi. The availability of alternative locations for the proposed use which are
404 not subject to flooding or erosion damage;
- 405 vii. The compatibility of the proposed use with existing and anticipated
406 development;
- 407 viii. The relationship of the proposed use to the comprehensive plan and
408 flood plain management program for that area;
- 409 ix. The safety of access to the property in times of flood for ordinary and
410 emergency vehicles;
- 411 x. The expected heights, velocity, duration, rate of rise, and sediment
412 transport of the flood waters and the effects of wave action, if applicable,
413 expected at the site;
- 414 xi. The costs of providing governmental services during and after flood
415 conditions, including maintenance and repair of public utilities and
416 facilities such as sewer, gas, electrical, and water systems, and streets
417 and bridges;

418 e. Generally, the only condition under which a variance may be issued is for new
419 construction and substantial improvements to be erected on a lot of one-half
420 acre or less in size contiguous to and surrounded by lots with existing structures
421 constructed below the base flood level, providing items (i) through (xi) in
422 subsection (D)(1)(d) of this section have been fully considered. As the lot size
423 increases beyond the one-half acre, the technical justification required for
424 issuing the variance increases;

425 f. Upon consideration of the factors of subsection (D)(1)(d) of this section and
426 the purposes of this legislation, the appeal board may attach such conditions to
427 the granting of variances as it deems necessary to further the purposes of this
428 legislation;

429 g. The director of public works shall maintain the records of the appeal actions
430 and report any variances to the Federal Insurance Administration upon request.

431 2. Conditions for Variances.

432 a. Generally, the only condition under which a variance from the elevation
433 standard may be issued is for new construction and substantial improvements to
434 be erected on a lot of one-half acre or less in size contiguous to and surrounded
435 by lots with existing structures constructed below the base flood level, providing

436 items (1) through (11) in subsection (D)(1)(d) of this section have been fully
437 considered. As the lot size increases, the technical justification required for
438 issuing the variance increases;

439 b. Variances may be issued for the repair ~~reconstruction~~, rehabilitation, or
440 restoration of historic structures ~~listed on the National Register of Historic Places~~
441 ~~or the state Inventory of Historic Places,~~ upon a determination that the
442 proposed repair or rehabilitation will not preclude the structure’s continued
443 designation as a historic structure and the variance is the minimum necessary to
444 preserve the historic character and design of the structure;

445 c. Variances shall not be issued within a designated floodway if any increase in
446 flood levels during the base flood discharge would result;

447 d. Variances shall only be issued upon a determination that the variance is the
448 minimum necessary, considering the flood hazard, to afford relief;

449 e. Variance shall only be issued upon:

- 450 i. A showing of good and sufficient cause;
- 451 ii. A determination that failure to grant the variance would result in
452 exceptional hardship to the applicant;
- 453 iii. A determination that the granting of a variance will not result in
454 increased flood heights, additional threats to public safety, extraordinary
455 public expense, create nuisances, cause fraud on or victimization of the
456 public or conflict with existing local laws or ordinances;

457 f. Variances as interpreted in the National Flood Insurance Program are based on
458 the general zoning law principle that they pertain to a physical piece of property;
459 they are not personal in nature and do not pertain to the structure, its
460 inhabitants, economic or financial circumstances. They primarily address small
461 lots in densely populated residential neighborhoods. As such, variances from the
462 flood elevations should be quite rare;

463 g. Variances may be issued for nonresidential buildings in very limited
464 circumstances to allow a lesser degree of floodproofing than watertight or dry-
465 floodproofing, where it can be determined that such action will have low
466 damage potential, complies with all other variance criteria except subsection
467 (D)(2)(a) of this section, and otherwise complies with LMC 16.46.050(A) and (B);

468 h. Any applicant to whom a variance is granted shall be given written notice over
469 the signature of a community official that the issuance of a variance to construct
470 a structure will result in increased premium rates for flood insurance up
471 to amounts as high as \$25 for \$100 of insurance coverage and that such
472 construction below the BFE increases risks to life and property. ~~and that the cost~~
473 ~~of flood insurance will be commensurate with the increased risk resulting from~~
474 ~~the reduced floor elevation~~ (Ord. 3285 § 2, 2018; Ord. 2274 § 3, 1999; Ord. 1701
475 § 3- 7, 1989; Ord. 1462 § 4, 1985)

477
478 **16.46.050 Provisions for flood hazard protection.**

479 A. General Standards. In all areas of special flood hazards, the following standards are required:

- 480 1. Anchoring.
- 481 a. All new construction and substantial improvements shall be anchored to
- 482 prevent flotation, collapse, or lateral movement of the structure resulting from
- 483 hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- 484 b. All manufactured homes must likewise be anchored to prevent flotation,
- 485 collapse, or lateral movement, and shall be installed using methods and practices
- 486 that minimize flood damage. Anchoring methods may include, but are not
- 487 limited to, use of over-the-top or frame ties to ground anchors. (Reference
- 488 FEMA’s “Manufactured Home Installation in Flood Hazard Areas” guidebook for
- 489 additional techniques.)
- 490 2. Construction Materials and Methods.
- 491 a. All new construction and substantial improvements shall be constructed with
- 492 materials and utility equipment resistant to flood damage.
- 493 b. All new construction and substantial improvements shall be constructed using
- 494 methods and practices that minimize flood damage.
- 495 c. Electrical, heating, ventilation, plumbing, and air conditioning equipment and
- 496 other service facilities shall be designed and/or otherwise elevated or located so
- 497 as to prevent water from entering or accumulating within the components
- 498 during conditions of flooding.
- 499 3. Utilities.
- 500 a. All new and replacement water supply systems shall be designed to minimize
- 501 or eliminate infiltration of flood waters into the system;
- 502 b. Water wells shall be located on high ground that is not in the floodway;
- 503 c. New and replacement sanitary sewage systems shall be designed to minimize
- 504 or eliminate infiltration of flood waters into the systems and discharge from the
- 505 systems into flood waters; and
- 506 d. On-site waste disposal systems shall be located to avoid impairment to them
- 507 or contamination from them during flooding.
- 508 4. ~~Subdivision~~Development Proposals.
- 509 a. All ~~subdivision~~ development proposals, including subdivisions and
- 510 manufactured home parks, shall be consistent with the need to minimize flood
- 511 damage;
- 512 b. All ~~subdivision~~ development proposals, including subdivisions and
- 513 manufactured home parks, shall have public utilities and facilities such as sewer,
- 514 gas, electrical, and water systems located and constructed to minimize flood
- 515 damage;
- 516 c. All ~~subdivision~~ development proposals, including subdivisions and
- 517 manufactured home parks, shall have adequate drainage provided to reduce
- 518 exposure to flood damage; and
- 519 d. Where base flood elevation data has not been provided or is not available
- 520 from another authoritative source, it shall be generated for all development
- 521 ~~subdivision~~ proposals, including subdivisions and manufactured home parks, and
- 522 ~~other proposed developments which contain at least~~ greater than 50 lots or five
- 523 acres (whichever is the lesser).

524 5. Review of Building Permits. Where elevation data is not available, either through the
525 Flood Insurance Study or from another authoritative source, LMC 16.46.040(C)(2),
526 applications for building permits shall be reviewed to assure that proposed construction
527 will be reasonably safe from flooding. The test of reasonableness is a local judgment and
528 includes historical data, high water marks, photographs of past flooding, etc., where
529 available. Failure to elevate at least two feet above the highest adjacent grade in these
530 zones may result in higher insurance rates.

531 B. Specific Standards. In all areas of special flood hazards where base flood elevation data has
532 been provided as set forth in LMC 16.46.030(B), Basis for Establishing the Areas of Special Flood
533 Hazard or LMC 16.46.040(C)(2), Use of Other Base Flood Data, the following provisions are
534 required:

535 1. Residential Construction.

536 a. New construction and substantial improvement of any residential structure
537 shall have the lowest floor, including basement, elevated to or one foot or more
538 above base flood elevation.

539 b. Fully enclosed areas below the lowest floor that are subject to flooding are
540 prohibited, or if used solely for parking, access or storage, shall be designed to
541 automatically equalize hydrostatic flood forces on exterior walls by allowing for
542 the entry and exit of floodwaters. Designs for meeting this requirement must
543 either be certified by a registered professional engineer or architect or must
544 meet or exceed the following minimum criteria:

545 i. A minimum of two openings having a total net area of not less than one square
546 inch for every square foot of enclosed area subject to flooding shall be provided.

547 ii. The bottom of all openings shall be no higher than one foot above grade.

548 iii. Openings may be equipped with screens, louvers, or other coverings or
549 devices; provided, that they permit the automatic entry and exit of floodwaters.

550 2. Nonresidential Construction. New construction and substantial improvement of any
551 commercial, industrial or other nonresidential structure shall either have the lowest
552 floor, including basement, elevated to the level of one foot or more above the base
553 flood elevation; or, together with attendant utility and sanitary facilities, shall:

554 a. Be floodproofed so that below one foot above the base flood level the
555 structure is watertight with walls substantially impermeable to the passage of
556 water;

557 b. Have structural components capable of resisting hydrostatic and
558 hydrodynamic loads and effects of buoyancy;

559 c. Be certified by a registered professional engineer or architect that the design
560 and methods of construction are in conformance with accepted standards of
561 practice for meeting provisions of this subsection based on their development
562 and/or review of the structural design, specifications and plans. Such
563 certifications shall be provided to the official as set forth in LMC 16.46.040
564 (C)(3)(b);

565 d. Nonresidential structures that are elevated, not floodproofed, must meet the
566 same standards for space below the lowest floor as described in subsection
567 (B)(1)(b) of this section;

- 568 e. Applicants floodproofing nonresidential buildings shall be notified that flood
569 insurance premiums will be based on rates that are one foot below the
570 floodproofed level (e.g., a building floodproofed to one foot above the base
571 flood level will be rated as at the base flood level).
- 572 3. Critical Facility. Construction of new critical facilities shall be, to the extent possible,
573 located outside the limits of the base flood plain. Construction of new critical facilities
574 shall be permissible within the base flood plain if no feasible alternative site is available.
575 Critical facilities constructed within the base flood plain shall have the lowest floor
576 elevated to three feet or more above the level of the base flood elevation at the site.
577 Floodproofing and sealing measures must be taken to ensure that toxic substances will
578 not be displaced by or released into flood waters. Access routes elevated to or above
579 the level of the base flood plain shall be provided to all critical facilities to the extent
580 possible.
- 581 4. Manufactured Homes. All manufactured homes to be placed or substantially
582 improved on sites shall be elevated on a permanent foundation such that the lowest
583 floor of the manufactured home is elevated one foot or more above the base flood
584 elevation and be securely anchored to an adequately anchored foundation system to
585 resist flotation, collapse and lateral movement.
- 586 a. All manufactured homes to be placed or substantially improved on sites:
587 i. Outside of a manufactured home park or subdivision;
588 ii. In a new manufactured home park or subdivision;
589 iii. In an expansion to an existing manufactured home park or subdivision;
590 or
591 iv. In an existing manufactured home park or subdivision on which a
592 manufactured home has incurred “substantial damage” as the result of a
593 flood;
594 shall be elevated on a permanent foundation such that the lowest floor
595 of the manufactured home is elevated one foot or more above the base
596 flood elevation and be securely anchored to an adequately designed
597 foundation system to resist flotation, collapse and lateral movement.
- 598 b. Manufactured homes to be placed or substantially improved on sites in an
599 existing manufactured home park or subdivision that are not subject to the
600 above manufactured home provisions be elevated so that either:
601 i. The lowest floor of the manufactured home is elevated one foot or
602 more above the base flood elevation; or
603 ii. The manufactured home chassis is supported by reinforced piers or
604 other foundation elements of at least equivalent strength that are no less
605 than 36 inches in height above grade and be securely anchored to an
606 adequately designed foundation system to resist flotation, collapse, and
607 lateral movement.
- 608 5. Recreation Vehicles. Recreational vehicles placed on sites are required to either:
609 a. Be on the site for fewer than 180 consecutive days;

- 610 b. Be fully licensed and ready for highway use, on their wheels or jacking system,
- 611 be attached to the site only by quick disconnect type utilities and security
- 612 devices, and have no permanently attached additions; or
- 613 c. Meet the requirements of subsection (B)(4) of this section and the elevation
- 614 and anchoring requirements for manufactured homes.

615 C. Floodways. Located within areas of special flood hazard established in LMC 16.46.030(B) are
616 areas designed as floodways. Since the floodway is an extremely hazardous area due to the
617 velocity of flood waters which carry debris, potential projectiles, and erosion potential, the
618 following provisions apply:

- 619 1. Prohibit encroachments, including fill, new construction, substantial improvements,
- 620 and other development unless certification by a registered professional engineer is
- 621 provided demonstrating through hydrologic and hydraulic analyses performed in
- 622 accordance with standard engineering practice that the proposed encroachments shall
- 623 not result in any increase in flood levels during the occurrence of the base flood
- 624 discharge.
- 625 2. Construction or reconstruction of residential structures is prohibited within
- 626 designated floodways, except for:
 - 627 a. Repairs, reconstruction, or improvements to a structure which do not increase
 - 628 the ground floor area; and
 - 629 b. Repairs, reconstruction or improvements to a structure, the cost of which
 - 630 does not exceed 50 percent of the market value of the structure either:
 - 631 i. Before the repair, or reconstruction, is started; or
 - 632 ii. If the structure has been damaged, and is being restored, before the
 - 633 damage occurred.
- 634 Any project for improvement of a structure to correct existing violations
- 635 of state or local health, sanitary, or safety code specifications which have
- 636 been identified by the local code enforcement official and which are the
- 637 minimum necessary to assure safe living conditions or to structures
- 638 identified as historic places shall not be included in the 50 percent.
- 639 3. If subsection (C)(1) of this section is satisfied, all new construction and substantial
- 640 improvements shall comply with all applicable flood hazard reduction provisions of this
- 641 section, Provisions for Flood Hazard Reduction.

642 D. Wetlands Management. To the maximum extent possible, avoid the short- and long-term
643 adverse impacts associated with the destruction or modification of wetlands, especially those
644 activities which limit or disrupt the ability of the wetland to alleviate flooding impacts. The
645 following process should be implemented:

- 646 1. Review proposals for development within base flood plains for their possible impacts
- 647 on wetlands located within the flood plain.
- 648 2. Ensure that development activities in or around wetlands do not negatively affect
- 649 public safety, health, and welfare by disrupting the wetlands' ability to reduce flood and
- 650 storm drainage.
- 651 3. Request technical assistance from the Department of Ecology in identifying wetland
- 652 areas. Existing wetland map information from the National Wetlands Inventory (NWI)
- 653 can be used in conjunction with the community's FIRM to prepare an overlay zone

654 indicating critical wetland areas deserving special attention. (Ord. 2274 § 4, 1999; Ord.
655 1701 § 8, 1989; Ord. 1462 § 5, 1985)

656 E. AE ~~and A1-30~~ Zones with Base Flood Elevations but no Floodways. In areas with base flood
657 elevations (but a regulatory floodway has not been designated), no new construction,
658 substantial improvements, or other development (including fill) shall be permitted within Zones
659 ~~A1-30 and~~ AE on the community's FIRM, unless it is demonstrated that the cumulative effect of
660 the proposed development, when combined with all other existing and anticipated
661 development, will not increase the water surface elevation of the base flood more than one
662 foot at any point within the community.

663 F. Zone VE Standards. ~~V, VE, and V1-30 Restrictions~~ - New structures, substantial improvements,
664 and recreational vehicles shall meet the following provisions: ~~are prohibited in the VE zone.~~
665 ~~Man-made alteration of sand dunes are is prohibited within Zones V1-30, VE, and V in Zone VE~~
666 ~~on the community's FIRM, which would increase potential flood damage.~~

667 1. All new construction and substantial improvements in zone VE on the community's
668 FIRM shall be elevated on pilings and columns so that:

669 a. Elevation:

670 i. Residential Buildings. The bottom of the lowest horizontal structural
671 member of the lowest floor (excluding the pilings or columns) is elevated
672 one foot or more above the base flood level.

673 ii. Nonresidential buildings. The bottom of the lowest horizontal
674 structural member of the lowest floor (excluding the pilings or columns)
675 is elevated one foot or more above the base flood level or meets the
676 elevation requirements of ASCE 24, whichever is higher; and

677 b. The pile or column foundation and structure attached thereto is anchored to
678 resist flotation, collapse and lateral movement due to the effects of wind and
679 water loads acting simultaneously on all building components. Wind and water
680 loading values shall each have a one percent chance of being equaled or
681 exceeded in any given year (100-year mean recurrence interval).

682 c. A registered professional engineer or architect shall develop or review the
683 structural design, specifications and plans for the construction, and shall certify
684 that the design and methods of construction to be used are in accordance with
685 accepted standards of practice for meeting the provisions of subsections 1.a.i
686 and 1.a.ii.

687 2. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest
688 structural member of the lowest floor (excluding pilings and columns) of all new and
689 substantially improved structures in zone VE on the community's FIRM and whether or
690 not such structures contain a basement. The (Floodplain Administrator) shall maintain a
691 record of all such information.

692 3. All new construction within zone VE on the community's FIRM shall be located
693 landward of the reach of mean high tide.

694 4. Provide that all new construction and substantial improvements within zone VE on
695 the community's FIRM have the space below the lowest floor either free of obstruction
696 or constructed with non-supporting breakaway walls, open wood lattice-work, or insect
697 screening intended to collapse under wind and water loads without causing collapse,

698 displacement, or other structural damage to the elevated portion of the building or
699 supporting foundation system. For the purposes of this section, a breakaway wall shall
700 have a design safe loading resistance of not less than 10 and no more than 20 pounds
701 per square foot. Use of breakaway walls which exceed a design safe loading resistance
702 of 20 pounds per square foot (either by design or when so required by local or state
703 codes) may be permitted only if a registered professional engineer or architect certifies
704 that the design proposed meets the following conditions:

705 a. Breakaway wall collapse shall result from water load less than that which
706 would occur during the base flood; and

707 b. The elevated portion of the building and supporting foundation system shall
708 not be subject to collapse, displacement, or other structural damage due to the
709 effects of wind and water loads acting simultaneously on all building
710 components (structural and non-structural). Maximum wind and water loading
711 values to be used in this determination shall each have a one percent chance of
712 being equaled or exceeded in any given year (100-year mean recurrence
713 interval).

714 c. If breakaway walls are utilized, such enclosed space shall be useable solely for
715 parking of vehicles, building access, or storage. Such space shall not be used for
716 human habitation.

717 5. Prohibit the use of fill for structural support of buildings within zone VE on the
718 community's FIRM.

719 6. Prohibit man-made alteration of sand dunes within zone VE on the community's FIRM
720 which would increase potential flood damage.

721 7. All manufactured homes to be placed or substantially improved within zone VE on the
722 community's FIRM on sites:

723 a. Outside of a manufactured home park or subdivision,

724 b. In a new manufactured home park or subdivision,

725 c. In an expansion to an existing manufactured home park or
726 subdivision, or

727 d. In an existing manufactured home park or subdivision on which a
728 manufactured home has incurred "substantial damage" as the result of a flood;
729 shall meet the standards of paragraphs (1) through (6) of this section and
730 manufactured homes placed or substantially improved on other sites in an
731 existing manufactured home park or subdivision within zone VE on the FIRM
732 shall meet the requirements of Section A.4.

733 8. Recreational vehicles placed on sites within V or VE zones on the community's FIRM
734 shall either:

735 a. Be on the site for fewer than 180 consecutive days, or

736 b. Be fully licensed and ready for highway use, on its wheels or jacking system,
737 attached to the site only by quick disconnect type utilities and security devices,
738 and have no permanently attached additions; or

739 c. Meet the requirements of subsections (1) and (3) above and the anchoring
740 requirements for manufactured homes (Section A.1.b)

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16.46.060 Severability.

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase or word of this ordinance.

Section 4. Effective Date: This ordinance or an approved summary thereof consisting of its title shall be published in the City’s official newspaper of record and shall take effect and be in full force five days following its publication.

PASSED BY THE CITY COUNCIL THIS XX day of XXXXXXXX, 20XX, and signed in authentication of its passage this XX day of XXXXXXXX, 20XX.

APPROVED:

Nicola Smith, Mayor

ATTEST/AUTHENTICATED:

APPROVED AS TO FORM:

Sonja Springer, Finance Director

Rosemary Larson, City Attorney

APPROVED AS TO FORM:

Rosemary Larson
City Attorney

ADOPTED BY THE CITY COUNCIL:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NUMBER:



LYNNWOOD
WASHINGTON

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY
COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON,
AMENDING LMC 16.46, FLOOD HAZARD REGULATIONS;
PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE
DATE; AND PROVIDING FOR SUMMARY PUBLICATION

WHEREAS, the City of Lynnwood has areas designated by the Federal Insurance Administrator as Special Flood Hazard Areas inundated by a 100-year flood; and

WHEREAS, the City of Lynnwood participates in the National Flood Insurance Program, allowing those within the City to purchase flood insurance, should they wish; and

WHEREAS, the City of Lynnwood desires to continue to participate in the National Flood Insurance Program, and must update its Flood Hazard Regulations in order to do so; and

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

Section 1: Purpose. The purpose of this ordinance is to amend the Lynnwood Municipal Code Chapter 16.46.

Section 2: Amendments. Section 16.46 is hereby amended to read:

Chapter 16.46
FLOOD HAZARD AREA REGULATIONS

Sections:

- 16.46.010 Statement of purpose.**
- 16.46.020 Definitions.**
- 16.46.030 General provisions.**
- 16.46.040 Administration.**
- 16.46.050 Provisions for flood hazard protection.**
- 16.46.060 Severability.**

16.46.010 Statement of purpose.

A. It is the purpose of this legislation to promote the public health, safety, and general welfare, and to avoid or abate public nuisances, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- 1. Protect human life and health;

- 44 2. Minimize expenditure of public money and costly flood control projects;
- 45 3. Minimize the need for rescue and relief efforts associated with flooding and generally
- 46 undertaken at the expense of the general public;
- 47 4. Minimize prolonged business interruptions;
- 48 5. Minimize damage to public facilities and utilities such as water and gas mains,
- 49 electric, telephone and sewer lines, streets, and bridges located in areas of special flood
- 50 hazard;
- 51 6. Help maintain a stable tax base by providing for the sound use and development of
- 52 areas of special flood hazard so as to minimize future flood blight areas;
- 53 7. Ensure that potential buyers are notified that property is in an area of special flood
- 54 hazard; and
- 55 8. Ensure that those who occupy the areas of special flood hazard assume responsibility
- 56 for their actions.

57 B. Methods of Reducing Flood Losses. In order to accomplish its purposes, this legislation
58 includes methods and provisions for:

- 59 1. Restricting or prohibiting uses which are dangerous to health, safety, and property
- 60 due to water or erosion hazards, or which result in damaging increases in erosion or in
- 61 flood heights or velocities;
- 62 2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be
- 63 protected against flood damage at the time of initial construction;
- 64 3. Controlling the alteration of natural flood plains, stream channels, and natural
- 65 protective barriers, which help accommodate or channel flood waters;
- 66 4. Controlling filling, grading, dredging, and other development which may increase
- 67 flood damage; and
- 68 5. Preventing or regulating the construction of flood barriers which will unnaturally
- 69 divert flood waters or which may increase flood hazards in other areas. (Ord. 2045 § 7,
- 70 1995; Ord. 1462 § 1, 1985)

71

72 **16.46.020 Definitions.**

73 Unless specifically defined below, words or phrases used shall be interpreted so as to give them
74 the meaning they have in common usage and to give this legislation its most reasonable
75 application.

76 “Alteration of watercourse” means any action that will change the location of the channel
77 occupied by water within the banks of any portion of a riverine waterbody.

78 “Appeal” means a request for a review of the director of public work’s interpretation of any
79 provision in this chapter or a request for a variance.

80 “Appeal board” means a three-member board appointed by the mayor to hear and determine
81 appeals.

82 “Area of shallow flooding” means a designated AO or AH zone on the Flood Insurance Rate Map
83 (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not
84 exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be
85 evident. AO is characterized as sheet flow, and AH indicates ponding.

86 “Area of special flood hazard” means the land in the flood plain within a community subject to
87 a one percent or greater chance of flooding in any given year. Designation on maps always
88 includes the letters “A” or “V.”

89 “Base flood” means the flood having a one percent chance of being equaled or exceeded in any
90 given year (also referred to as the "100-year flood").

91 “Basement” means any area of the building having its floor subgrade (below ground level) on all
92 sides.

93 “Breakaway wall” means a wall that is not part of the structural support of the building and is
94 intended through its design and construction to collapse under specific lateral loading forces,
95 without causing damage to the elevated portion of the building or supporting foundation
96 system.

97 “Coastal high hazard area” means an area of special flood hazard extending from offshore to
98 the inland limit of a primary frontal dune along an open coast and any other area subject to
99 high velocity wave action from storms or seismic sources.

100 “Critical facility” means a facility for which even a slight chance of flooding might be too great.
101 Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire
102 and emergency response installations, installations which produce, use, or store hazardous
103 materials or hazardous waste.

104 “Development” means any manmade change to improved or unimproved real estate, including
105 but not limited to buildings or other structures, mining, dredging, filling, grading, paving,
106 excavation or drilling operations, or storage of equipment or materials located within the area
107 of special flood hazard.

108 “Elevated building” means for insurance purposes, a non-basement building which has its
109 lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers,
110 pilings, or columns.

111 “Existing manufactured home park or subdivision” means a manufactured home park or
112 subdivision for which the construction of facilities for servicing the lots on which the
113 manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the
114 construction of streets, and either final site grading or the pouring of concrete pads) is
115 completed before the effective date of the adopted flood plain management regulations.

116 “Expansion to an existing manufactured home park or subdivision” means the preparation of
117 additional sites by the construction of facilities for servicing the lots on which the manufactured
118 homes are to be affixed (including the installation of utilities, the construction of streets, and
119 either final site grading or the pouring of concrete pads).

120 “Flood” or “flooding” means:

121 1. a general and temporary condition of partial or complete inundation of normally dry
122 land areas from:

123 a. The overflow of inland or tidal waters; and/or
124 b. The unusual and rapid accumulation of runoff of surface waters from any
125 source.
126 c. Mudslides (i.e., mudflows) which are proximately caused by flooding as
127 defined in paragraph (1)(b) of this definition and are akin to a river of liquid and
128 flowing mud on the surfaces of normally dry land areas, as when earth is carried
129 by a current of water and deposited along the path of the current.

130 2. The collapse or subsidence of land along the shore of a lake or other body of water as
131 a result of erosion or undermining caused by waves or currents of water exceeding
132 anticipated cyclical levels or suddenly caused by an unusually high water level in a
133 natural body of water, accompanied by a severe storm, or by an unanticipated force of
134 nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and
135 unforeseeable event which results in flooding as defined in paragraph (1)(a) of this
136 definition.

137 "Flood elevation study" means the examination, evaluation and determination of flood hazards
138 and, if appropriate, corresponding water surface elevations, or an examination, evaluation and
139 determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards. Also known as
140 Flood Insurance Study (FIS).

141 "Flood insurance rate map (FIRM)" means the official map on which the Federal Insurance
142 Administrator has delineated both the areas of special flood hazards and the risk premium
143 zones applicable to the community.

144 "Floodplain or flood prone area" means any land area susceptible to being inundated by water
145 from any source. See "Flood or flooding."

146 "Floodplain administrator" the community official designated by title to administer and enforce
147 the floodplain management regulations.

148 "Flood proofing" means any combination of structural and nonstructural additions, changes, or
149 adjustments to structures which reduce or eliminate risk of flood damage to real estate or
150 improved real property, water and sanitary facilities, structures, and their contents. Flood
151 proofed structures are those that have the structural integrity and design to be impervious to
152 floodwater below the Base Flood Elevation.

153 "Floodway" means the channel of a river or other watercourse and the adjacent land areas that
154 must be reserved in order to discharge the base flood without cumulatively increasing the
155 water surface elevation more than a designated height.

156 "Functionally dependent use" means a use which cannot perform its intended purpose unless it
157 is located or carried out in close proximity to water. The term includes only docking facilities,
158 port facilities that are necessary for the loading and unloading of cargo or passengers, and ship
159 building and ship repair facilities, and does not include long term storage or related
160 manufacturing facilities.

161 "Highest adjacent grade" The highest natural elevation of the ground surface prior to
162 construction next to the proposed walls of a structure.

163 "Historic structure" means any structure that is:

- 164 1. Listed individually in the National Register of Historic Places (a listing maintained by
165 the Department of Interior) or preliminarily determined by the Secretary of the Interior
166 as meeting the requirements for individual listing on the National Register;
- 167 2. Certified or preliminarily determined by the Secretary of the Interior as contributing
168 to the historical significance of a registered historic district or a district preliminarily
169 determined by the Secretary to qualify as a registered historic district;
- 170 3. Individually listed on a state inventory of historic places in states with historic
171 preservation programs which have been approved by the Secretary of Interior; or
- 172 4. Individually listed on a local inventory of historic places in communities with historic
173 preservation programs that have been certified either:

174 a. By an approved state program as determined by the Secretary of the Interior,
175 or

176 b. Directly by the Secretary of the Interior in states without approved programs.

177 “Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An
178 unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or
179 storage, in an area other than a basement area, is not considered a building’s lowest floor;
180 provided, that such enclosure is not built so as to render the structure in violation of the

181 applicable non-elevation design requirements of this chapter found at LMC 16.46.050(B)(1)(b).

182 “Manufactured home” means a structure, transportable in one or more sections, which is built
183 on a permanent chassis and is designed for use with or without a permanent foundation when
184 connected to the required utilities. For flood plain management purposes, the term

185 “manufactured home” also includes park trailers, travel trailers, and other similar vehicles

186 placed on a site for greater than 180 consecutive days. For insurance purposes the term

187 “manufactured home” does not include park trailers, travel trailers, and other similar vehicles.

188 The term “manufactured home” does not include a recreational vehicle.

189 “Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land
190 divided into two or more manufactured home lots for rent or sale.

191 “Mean Sea Level” for purposes of the National Flood Insurance Program, the vertical datum to
192 which Base Flood Elevations shown on a community's Flood Insurance Rate Map are
193 referenced.

194 “New construction” means for the purpose of determining insurance rates, structures for which
195 the start of construction commenced on or after the effective date of an initial Flood Insurance
196 Rate Map or after December 31, 1974, whichever is later, and includes any subsequent
197 improvements to such structures. For floodplain management purposes, new construction
198 means structures for which the start of construction commenced on or after the effective date
199 of a floodplain management regulation adopted by a community and includes any subsequent
200 improvements to such structures.

201 “New manufactured home park or subdivision” means a manufactured home park or
202 subdivision for which the construction of facilities for servicing the lots on which the
203 manufactured homes are to be affixed (including at a minimum, the installation of utilities, the
204 construction of streets, and either final site grading or the pouring of concrete pads) is
205 completed on or after the effective date of adopted flood plain management regulations.

206 “Recreational vehicle” means a vehicle which is:

- 207 1. Built on a single chassis;
- 208 2. Four hundred square feet or less when measured at the largest horizontal projection;
- 209 3. Designed to be self-propelled or permanently towable by a light duty truck; and
- 210 4. Designed primarily not for use as a permanent dwelling but as temporary living
211 quarters for recreational, camping, travel, or seasonal use.

212 “Start of construction” includes substantial improvement, and means the date the building
213 permit was issued, provided the actual start of construction, repair, reconstruction, placement
214 or other improvement was within 180 days of the permit date. The actual start means either
215 the first placement of permanent construction of a structure on a site, such as the pouring of
216 slab or footings, the installation of piles, the construction of columns, or any work beyond the
217 stage of excavation; or the placement of a manufactured home on a foundation. Permanent

218 construction does not include land preparation, such as clearing, grading, and filling; nor does it
219 include the installation of streets and/or walkways; nor does it include excavation for a
220 basement, footings, piers, or foundations, or the erection of temporary forms; nor does it
221 include the installation on the property of accessory buildings, such as garages or sheds not
222 occupied as dwelling units or not as part of the main structure. For a substantial improvement,
223 the actual start of construction means the first alteration or any wall, ceiling, floor, or other
224 structural part of a building, whether or not that alteration affects the external dimensions of
225 the building.

226 “Structure” means a walled and roofed building or manufactured home including a gas or liquid
227 storage tank that is principally above ground.

228 “Substantial damage” means damage of any origin sustained by a structure whereby the cost of
229 restoring the structure to its before-damaged condition would equal or exceed 50 percent of
230 the market value of the structure before the damage occurred.

231 “Substantial improvement” means any reconstruction, rehabilitation, addition or improvement
232 of a structure, the cost of which equals or exceeds 50 percent of the market value of the
233 structure before the start of construction of the improvement. This term includes structures
234 which have incurred substantial damage, regardless of the actual repair work performed. The
235 term does not, however, include, either:

- 236 1. Any project for improvement of a structure to correct existing violations of state or
237 local health, sanitary, or safety code specifications that have been previously identified
238 by the local code enforcement official and which are the minimum necessary to assure
239 safe living conditions; or
- 240 2. Any alteration of a historic structure provided that the alteration will not preclude the
241 structure’s continued designation as a historic structure.

242 “Variance” means a grant of relief from the requirements of this legislation which permits
243 construction in a manner that would otherwise be prohibited by this chapter.

244 “Water dependent” means a structure for commerce or industry which cannot exist in any
245 other location and is dependent on the water by reason of the intrinsic nature of its operations.
246 (Ord. 2274 § 1, 1999; Ord. 1916 § 1, 1992; Ord. 1701 § 1, 1989; Ord. 1462 § 2, 1985)

247

248 **16.46.030 General provisions.**

249 A. Lands to Which This Chapter Applies. This legislation shall apply to all areas of special flood
250 hazards within the jurisdiction of the city of Lynnwood.

251 B. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard
252 identified by the Federal Insurance Administrator in a scientific and engineering report entitled
253 “The Flood Insurance Study for Snohomish County, Washington and Incorporated Areas,” dated
254 June 19, 2020, as amended, with accompanying flood insurance rate maps as amended, are
255 hereby adopted by reference and declared to be part of this chapter. The flood insurance study
256 and the flood insurance rate map are on file at the city of Lynnwood public works department.
257 The best available information for flood hazard area identification as outlined in LMC
258 16.46.040(C)(2) shall be the basis for regulation until a new FIRM is issued which incorporates
259 the data utilized under LMC 16.46.040(C)(2).

260 C. Penalties for Noncompliance. No structure or land shall hereafter be constructed, located,
261 extended, converted, or altered without full compliance with the terms of this chapter and

262 other applicable regulations. Violation of the provisions of this chapter by failure to comply
263 with any of its requirements (including violations of conditions and safeguards established in
264 connection with conditions) shall constitute a misdemeanor. Any person who violates this
265 chapter or fails to comply with any of its requirements shall upon conviction thereof be fined
266 not more than \$500.00 or imprisoned for not more than 90 days, or both, for each violation,
267 and in addition shall pay all costs and expenses involved in the case. Nothing herein contained
268 shall prevent the city of Lynnwood from taking such lawful action as is necessary to prevent or
269 remedy any violation.

270 D. Abrogation and Greater Restrictions. This legislation is not intended to repeal, abrogate, or
271 impair any existing easements, covenants, or deed restrictions. However, where this chapter
272 and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever
273 imposes the more stringent restrictions shall prevail.

274 E. Interpretation. In the interpretation and application of this legislation, all provisions shall be:

- 275 1. Considered as minimum requirements;
- 276 2. Liberally construed in favor of the governing body; and
- 277 3. Deemed neither to limit nor repeal any other powers granted under law.

278 F. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is
279 considered reasonable for regulatory purposes and is based on scientific and engineering
280 considerations. Larger floods can and will occur on rare occasions. Flood heights may be
281 increased by manmade or natural causes. This legislation does not imply that land outside the
282 areas of special flood hazards or uses permitted within such areas will be free from flooding or
283 flood damages. This legislation shall not create liability on the part of the city of Lynnwood, any
284 officer or employee thereof, or the Federal Insurance Administration, for any flood damages
285 that result from the reliance on this legislation or any administrative decision lawfully made
286 thereunder. (Ord. 2274 § 2, 1999; Ord. 1916 § 2, 1992; Ord. 1701 § 2, 1989; Ord. 1462 § 3,
287 1985)

288

289 **16.46.040 Administration.**

290 A. Establishment of Development Permit.

291 1. Development Permit Required. A development permit shall be obtained before
292 construction or development begins within any area of special flood hazard established
293 in LMC 16.46.030 (B). The permit shall be for all structures including manufactured
294 homes, as set forth in LMC 16.46.020, Definitions, and for all development including fill
295 and other activities, also as set forth in LMC 16.46.020, Definitions.

296 2. Application for Development Permit. Application for a development permit shall be
297 made on forms furnished by the city of Lynnwood and may include but not be limited
298 to: plans in duplicate drawn to scale showing the nature, location, dimensions, and
299 elevations of the area in question; existing or proposed structures, fill, storage or
300 materials, drainage facilities, and the location of the foregoing. Specifically, the
301 following information is required:

- 302 a. Proposed elevation in relation to mean sea level, of the lowest floor (including
303 basement) of all structures;
- 304 b. Proposed elevation in relation to mean sea level to which any structure will be
305 floodproofed;

- 306 c. Certification by a registered professional engineer or architect that the
- 307 floodproofing methods for any nonresidential structure meet the floodproofing
- 308 criteria in LMC 16.46.050(B)(2); and
- 309 d. Description of the extent to which a watercourse will be altered or relocated
- 310 as a result of proposed development.

311 B. Designation of the Public Works Director. The city director of public works or his designee is
312 hereby appointed to administer, implement and enforce this legislation by granting or denying
313 development permit applications in accordance with its provisions.

314 C. Duties and Responsibilities of the Public Works Director. Duties of the director of public
315 works shall include, but not be limited to:

316 1. Permit Review.

- 317 a. Review all development permits to determine that the permit requirements of
- 318 this chapter have been satisfied;
- 319 b. Review all development permits to determine that all necessary permits have
- 320 been obtained from those federal, state, or local governmental agencies from
- 321 which prior approval is required;
- 322 c. Review all development permits to determine the site is reasonably safe from
- 323 flooding;
- 324 d. Review all development permits to determine if the proposed development is
- 325 located in the floodway. If located in the floodway, assure that the
- 326 encroachment provisions of LMC 16.46.050(C)(1) are met.

327 2. Use of Other Base Flood Data. When base flood elevation data has not been provided
328 in accordance with LMC 16.46.030(B), Basis for Establishing the Areas of Special Flood
329 Hazard, the public works director shall obtain, review, and reasonably utilize any base
330 flood elevation and floodway data available from a federal, state, or other source, in
331 order to administer LMC 16.46.050(B), Specific Standards, and 16.46.050 (C), Floodways.

332 3. Information to be Obtained and Maintained.

- 333 a. Obtain and maintain the actual (as-built) elevation of the lowest floor,
- 334 including basement, of all new or substantially improved structures, and
- 335 whether or not the structure contains a basement;
- 336 b. For all new or substantially improved floodproofed structures:
 - 337 i. Verify and record the actual elevation to which the structure was
 - 338 floodproofed; and
 - 339 ii. Maintain the floodproofing certifications required in subsection
 - 340 (A)(2)(c) of this section;
- 341 c. Maintain for public inspection all records pertaining to the provisions of this
- 342 legislation.

343 4. Alteration of Watercourses.

- 344 a. Notify adjacent communities and the Washington State Department of
- 345 Ecology prior to any alteration or relocation of a watercourse, and submit
- 346 evidence of such notification to the Federal Insurance Administrator;
- 347 b. Assure that the flood-carrying capacity of the altered or relocated portion of
- 348 said watercourse is maintained.

349 5. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact
350 location of the boundaries of the areas of special flood hazards (for example, where
351 there appears to be a conflict between a mapped boundary and actual field conditions).
352 The person contesting the location of the boundary shall be given a reasonable
353 opportunity to appeal the interpretation as provided in subsection (D) of this section.

354 6. Base Flood Elevations may increase or decrease resulting from physical changes
355 affecting flooding conditions. As soon as practicable, but not later than six months after
356 the date such information becomes available, the Floodplain Administrator shall notify
357 the Federal Insurance Administrator of the changes by submitting technical or scientific
358 data in accordance with Volume 44 Code of Federal Regulations Section 65.3. Such a
359 submission is necessary so that upon confirmation of those physical changes affecting
360 flooding conditions, risk premium rates and floodplain management requirements will
361 be based upon current data.

362 7. Notify the Federal Insurance Administrator in writing of acquisition by means of
363 annexation, incorporation or otherwise, of additional areas of jurisdiction

364 D. Variance Procedure.

365 1. Appeal Board. The mayor shall appoint members to the three-member appeal board
366 as needed. Members shall have the educational and mechanical background and
367 experience to hear and determine appeals arising from this legislation.

368 a. The appeal board shall hear and decide appeals and requests for variances
369 from the requirements of this legislation;

370 b. The appeal board shall hear and decide appeals when it is alleged there is an
371 error in any requirement, decision or determination made by the director of
372 public works in the enforcement of this legislation;

373 c. Those aggrieved by the decision of the appeal board may appeal such decision
374 to the Snohomish County superior court as provided by law;

375 d. In passing upon such applications, the appeal board shall consider all technical
376 evaluations, all relevant factors, standards specified in other sections of this
377 legislation; and

378 i. The danger that materials may be swept onto other lands to the injury
379 of others;

380 ii. The danger to life and property due to flooding or erosion damage;

381 iii. The susceptibility of the proposed facility and its contents to flood
382 damage and the effect of such damage on the individual owner;

383 iv. The importance of the services provided by the proposed facility to
384 the community;

385 v. The necessity to the facility of a waterfront location, where applicable;

386 vi. The availability of alternative locations for the proposed use which are
387 not subject to flooding or erosion damage;

388 vii. The compatibility of the proposed use with existing and anticipated
389 development;

390 viii. The relationship of the proposed use to the comprehensive plan and
391 flood plain management program for that area;

- 392 ix. The safety of access to the property in times of flood for ordinary and
393 emergency vehicles;
394 x. The expected heights, velocity, duration, rate of rise, and sediment
395 transport of the flood waters and the effects of wave action, if applicable,
396 expected at the site;
397 xi. The costs of providing governmental services during and after flood
398 conditions, including maintenance and repair of public utilities and
399 facilities such as sewer, gas, electrical, and water systems, and streets
400 and bridges;
- 401 e. Generally, the only condition under which a variance may be issued is for new
402 construction and substantial improvements to be erected on a lot of one-half
403 acre or less in size contiguous to and surrounded by lots with existing structures
404 constructed below the base flood level, providing items (i) through (xi) in
405 subsection (D)(1)(d) of this section have been fully considered. As the lot size
406 increases beyond the one-half acre, the technical justification required for
407 issuing the variance increases;
- 408 f. Upon consideration of the factors of subsection (D)(1)(d) of this section and
409 the purposes of this legislation, the appeal board may attach such conditions to
410 the granting of variances as it deems necessary to further the purposes of this
411 legislation;
- 412 g. The director of public works shall maintain the records of the appeal actions
413 and report any variances to the Federal Insurance Administration upon request.

414 2. Conditions for Variances.

- 415 a. Generally, the only condition under which a variance from the elevation
416 standard may be issued is for new construction and substantial improvements to
417 be erected on a lot of one-half acre or less in size contiguous to and surrounded
418 by lots with existing structures constructed below the base flood level, providing
419 items (1) through (11) in subsection (D)(1)(d) of this section have been fully
420 considered. As the lot size increases, the technical justification required for
421 issuing the variance increases;
- 422 b. Variances may be issued for the repair, rehabilitation, or restoration of historic
423 structures upon a determination that the proposed repair or rehabilitation will
424 not preclude the structure's continued designation as a historic structure and the
425 variance is the minimum necessary to preserve the historic character and design
426 of the structure;
- 427 c. Variances shall not be issued within a designated floodway if any increase in
428 flood levels during the base flood discharge would result;
- 429 d. Variances shall only be issued upon a determination that the variance is the
430 minimum necessary, considering the flood hazard, to afford relief;
- 431 e. Variance shall only be issued upon:
- 432 i. A showing of good and sufficient cause;
- 433 ii. A determination that failure to grant the variance would result in
434 exceptional hardship to the applicant;

435 iii. A determination that the granting of a variance will not result in
436 increased flood heights, additional threats to public safety, extraordinary
437 public expense, create nuisances, cause fraud on or victimization of the
438 public or conflict with existing local laws or ordinances;
439 f. Variances as interpreted in the National Flood Insurance Program are based on
440 the general zoning law principle that they pertain to a physical piece of property;
441 they are not personal in nature and do not pertain to the structure, its
442 inhabitants, economic or financial circumstances. They primarily address small
443 lots in densely populated residential neighborhoods. As such, variances from the
444 flood elevations should be quite rare;
445 g. Variances may be issued for nonresidential buildings in very limited
446 circumstances to allow a lesser degree of floodproofing than watertight or dry-
447 floodproofing, where it can be determined that such action will have low
448 damage potential, complies with all other variance criteria except subsection
449 (D)(2)(a) of this section, and otherwise complies with LMC 16.46.050(A) and (B);
450 h. Any applicant to whom a variance is granted shall be given written notice over
451 the signature of a community official that the issuance of a variance to construct
452 a structure with a lowest floor elevation below the base flood elevation will
453 result in increased premium rates for flood insurance up to amounts as high as
454 \$25 for \$100 of insurance coverage and that such construction below the BFE
455 increases risks to life and property. (Ord. 3285 § 2, 2018; Ord. 2274 § 3, 1999;
456 Ord. 1701 § 3- 7, 1989; Ord. 1462 § 4, 1985)

457
458 **16.46.050 Provisions for flood hazard protection.**

459 A. General Standards. In all areas of special flood hazards, the following standards are required:

- 460 1. Anchoring.
 - 461 a. All new construction and substantial improvements shall be anchored to
 - 462 prevent flotation, collapse, or lateral movement of the structure resulting from
 - 463 hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - 464 b. All manufactured homes must likewise be anchored to prevent flotation,
 - 465 collapse, or lateral movement, and shall be installed using methods and practices
 - 466 that minimize flood damage. Anchoring methods may include, but are not
 - 467 limited to, use of over-the-top or frame ties to ground anchors. (Reference
 - 468 FEMA’s “Manufactured Home Installation in Flood Hazard Areas” guidebook for
 - 469 additional techniques.)
- 470 2. Construction Materials and Methods.
 - 471 a. All new construction and substantial improvements shall be constructed with
 - 472 materials and utility equipment resistant to flood damage.
 - 473 b. All new construction and substantial improvements shall be constructed using
 - 474 methods and practices that minimize flood damage.
 - 475 c. Electrical, heating, ventilation, plumbing, and air conditioning equipment and
 - 476 other service facilities shall be designed and/or otherwise elevated or located so
 - 477 as to prevent water from entering or accumulating within the components
 - 478 during conditions of flooding.

- 479 3. Utilities.
480 a. All new and replacement water supply systems shall be designed to minimize
481 or eliminate infiltration of flood waters into the system;
482 b. Water wells shall be located on high ground that is not in the floodway;
483 c. New and replacement sanitary sewage systems shall be designed to minimize
484 or eliminate infiltration of flood waters into the systems and discharge from the
485 systems into flood waters; and
486 d. On-site waste disposal systems shall be located to avoid impairment to them
487 or contamination from them during flooding.

- 488 4. Development Proposals.
489 a. All development proposals, including subdivisions and manufactured home
490 parks, shall be consistent with the need to minimize flood damage;
491 b. All development proposals, including subdivisions and manufactured home
492 parks, shall have public utilities and facilities such as sewer, gas, electrical, and
493 water systems located and constructed to minimize flood damage;
494 c. All development proposals, including subdivisions and manufactured home
495 parks, shall have adequate drainage provided to reduce exposure to flood
496 damage; and
497 d. Where base flood elevation data has not been provided or is not available
498 from another authoritative source, it shall be generated for all development
499 proposals, including subdivisions and manufactured home parks, greater than 50
500 lots or five acres (whichever is the lesser).

501 5. Review of Building Permits. Where elevation data is not available, either through the
502 Flood Insurance Study or from another authoritative source, LMC 16.46.040(C)(2),
503 applications for building permits shall be reviewed to assure that proposed construction
504 will be reasonably safe from flooding. The test of reasonableness is a local judgment and
505 includes historical data, high water marks, photographs of past flooding, etc., where
506 available. Failure to elevate at least two feet above the highest adjacent grade in these
507 zones may result in higher insurance rates.

508 B. Specific Standards. In all areas of special flood hazards where base flood elevation data has
509 been provided as set forth in LMC 16.46.030(B), Basis for Establishing the Areas of Special Flood
510 Hazard or LMC 16.46.040(C)(2), Use of Other Base Flood Data, the following provisions are
511 required:

- 512 1. Residential Construction.
513 a. New construction and substantial improvement of any residential structure
514 shall have the lowest floor, including basement, elevated to or one foot or more
515 above base flood elevation.
516 b. Fully enclosed areas below the lowest floor that are subject to flooding are
517 prohibited, or if used solely for parking, access or storage, shall be designed to
518 automatically equalize hydrostatic flood forces on exterior walls by allowing for
519 the entry and exit of floodwaters. Designs for meeting this requirement must
520 either be certified by a registered professional engineer or architect or must
521 meet or exceed the following minimum criteria:

522 i. A minimum of two openings having a total net area of not less than one square
523 inch for every square foot of enclosed area subject to flooding shall be provided.
524 ii. The bottom of all openings shall be no higher than one foot above grade.
525 iii. Openings may be equipped with screens, louvers, or other coverings or
526 devices; provided, that they permit the automatic entry and exit of floodwaters.

527 2. Nonresidential Construction. New construction and substantial improvement of any
528 commercial, industrial or other nonresidential structure shall either have the lowest
529 floor, including basement, elevated to the level of one foot or more above the base
530 flood elevation; or, together with attendant utility and sanitary facilities, shall:

531 a. Be floodproofed so that below one foot above the base flood level the
532 structure is watertight with walls substantially impermeable to the passage of
533 water;

534 b. Have structural components capable of resisting hydrostatic and
535 hydrodynamic loads and effects of buoyancy;

536 c. Be certified by a registered professional engineer or architect that the design
537 and methods of construction are in conformance with accepted standards of
538 practice for meeting provisions of this subsection based on their development
539 and/or review of the structural design, specifications and plans. Such
540 certifications shall be provided to the official as set forth in LMC 16.46.040
541 (C)(3)(b);

542 d. Nonresidential structures that are elevated, not floodproofed, must meet the
543 same standards for space below the lowest floor as described in subsection
544 (B)(1)(b) of this section;

545 e. Applicants floodproofing nonresidential buildings shall be notified that flood
546 insurance premiums will be based on rates that are one foot below the
547 floodproofed level (e.g., a building floodproofed to one foot above the base
548 flood level will be rated as at the base flood level).

549 3. Critical Facility. Construction of new critical facilities shall be, to the extent possible,
550 located outside the limits of the base flood plain. Construction of new critical facilities
551 shall be permissible within the base flood plain if no feasible alternative site is available.
552 Critical facilities constructed within the base flood plain shall have the lowest floor
553 elevated to three feet or more above the level of the base flood elevation at the site.
554 Floodproofing and sealing measures must be taken to ensure that toxic substances will
555 not be displaced by or released into flood waters. Access routes elevated to or above
556 the level of the base flood plain shall be provided to all critical facilities to the extent
557 possible.

558 4. Manufactured Homes. All manufactured homes to be placed or substantially
559 improved on sites shall be elevated on a permanent foundation such that the lowest
560 floor of the manufactured home is elevated one foot or more above the base flood
561 elevation and be securely anchored to an adequately anchored foundation system to
562 resist flotation, collapse and lateral movement.

563 a. All manufactured homes to be placed or substantially improved on sites:

564 i. Outside of a manufactured home park or subdivision;

565 ii. In a new manufactured home park or subdivision;

- 566 iii. In an expansion to an existing manufactured home park or subdivision;
567 or
568 iv. In an existing manufactured home park or subdivision on which a
569 manufactured home has incurred “substantial damage” as the result of a
570 flood;
571 shall be elevated on a permanent foundation such that the lowest floor
572 of the manufactured home is elevated one foot or more above the base
573 flood elevation and be securely anchored to an adequately designed
574 foundation system to resist flotation, collapse and lateral movement.
575 b. Manufactured homes to be placed or substantially improved on sites in an
576 existing manufactured home park or subdivision that are not subject to the
577 above manufactured home provisions be elevated so that either:
578 i. The lowest floor of the manufactured home is elevated one foot or
579 more above the base flood elevation; or
580 ii. The manufactured home chassis is supported by reinforced piers or
581 other foundation elements of at least equivalent strength that are no less
582 than 36 inches in height above grade and be securely anchored to an
583 adequately designed foundation system to resist flotation, collapse, and
584 lateral movement.
- 585 5. Recreation Vehicles. Recreational vehicles placed on sites are required to either:
586 a. Be on the site for fewer than 180 consecutive days;
587 b. Be fully licensed and ready for highway use, on their wheels or jacking system,
588 be attached to the site only by quick disconnect type utilities and security
589 devices, and have no permanently attached additions; or
590 c. Meet the requirements of subsection (B)(4) of this section and the elevation
591 and anchoring requirements for manufactured homes.
- 592 C. Floodways. Located within areas of special flood hazard established in LMC 16.46.030(B) are
593 areas designed as floodways. Since the floodway is an extremely hazardous area due to the
594 velocity of flood waters which carry debris, potential projectiles, and erosion potential, the
595 following provisions apply:
596 1. Prohibit encroachments, including fill, new construction, substantial improvements,
597 and other development unless certification by a registered professional engineer is
598 provided demonstrating through hydrologic and hydraulic analyses performed in
599 accordance with standard engineering practice that the proposed encroachments shall
600 not result in any increase in flood levels during the occurrence of the base flood
601 discharge.
602 2. Construction or reconstruction of residential structures is prohibited within
603 designated floodways, except for:
604 a. Repairs, reconstruction, or improvements to a structure which do not increase
605 the ground floor area; and
606 b. Repairs, reconstruction or improvements to a structure, the cost of which
607 does not exceed 50 percent of the market value of the structure either:
608 i. Before the repair, or reconstruction, is started; or

609 ii. If the structure has been damaged, and is being restored, before the
610 damage occurred.
611 Any project for improvement of a structure to correct existing violations
612 of state or local health, sanitary, or safety code specifications which have
613 been identified by the local code enforcement official and which are the
614 minimum necessary to assure safe living conditions or to structures
615 identified as historic places shall not be included in the 50 percent.

616 3. If subsection (C)(1) of this section is satisfied, all new construction and substantial
617 improvements shall comply with all applicable flood hazard reduction provisions of this
618 section, Provisions for Flood Hazard Reduction.

619 D. Wetlands Management. To the maximum extent possible, avoid the short- and long-term
620 adverse impacts associated with the destruction or modification of wetlands, especially those
621 activities which limit or disrupt the ability of the wetland to alleviate flooding impacts. The
622 following process should be implemented:

- 623 1. Review proposals for development within base flood plains for their possible impacts
624 on wetlands located within the flood plain.
- 625 2. Ensure that development activities in or around wetlands do not negatively affect
626 public safety, health, and welfare by disrupting the wetlands' ability to reduce flood and
627 storm drainage.
- 628 3. Request technical assistance from the Department of Ecology in identifying wetland
629 areas. Existing wetland map information from the National Wetlands Inventory (NWI)
630 can be used in conjunction with the community's FIRM to prepare an overlay zone
631 indicating critical wetland areas deserving special attention. (Ord. 2274 § 4, 1999; Ord.
632 1701 § 8, 1989; Ord. 1462 § 5, 1985)

633 E. AE Zones with Base Flood Elevations but no Floodways. In areas with base flood elevations
634 (but a regulatory floodway has not been designated), no new construction, substantial
635 improvements, or other development (including fill) shall be permitted within Zone AE on the
636 community's FIRM, unless it is demonstrated that the cumulative effect of the proposed
637 development, when combined with all other existing and anticipated development, will not
638 increase the water surface elevation of the base flood more than one foot at any point within
639 the community.

640 F. Zone VE Standards. New structures, substantial improvements and recreational vehicles shall
641 meet the following provisions:

- 642 1. All new construction and substantial improvements in zone VE on the community's
643 FIRM shall be elevated on pilings and columns so that:
 - 644 a. Elevation:
 - 645 i. Residential Buildings. The bottom of the lowest horizontal structural
646 member of the lowest floor (excluding the pilings or columns) is elevated
647 one foot or more above the base flood level.
 - 648 ii. Nonresidential buildings. The bottom of the lowest horizontal
649 structural member of the lowest floor (excluding the pilings or columns)
650 is elevated one foot or more above the base flood level or meets the
651 elevation requirements of ASCE 24, whichever is higher; and

652 b. The pile or column foundation and structure attached thereto is anchored to
653 resist flotation, collapse and lateral movement due to the effects of wind and
654 water loads acting simultaneously on all building components. Wind and water
655 loading values shall each have a one percent chance of being equaled or
656 exceeded in any given year (100-year mean recurrence interval).

657 c. A registered professional engineer or architect shall develop or review the
658 structural design, specifications and plans for the construction, and shall certify
659 that the design and methods of construction to be used are in accordance with
660 accepted standards of practice for meeting the provisions of subsections 1.a.i
661 and 1.a.ii.

662 2. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest
663 structural member of the lowest floor (excluding pilings and columns) of all new and
664 substantially improved structures in zone VE on the community's FIRM and whether or
665 not such structures contain a basement. The Floodplain Administrator shall maintain a
666 record of all such information.

667 3. All new construction within zone VE on the community's FIRM shall be located
668 landward of the reach of mean high tide.

669 4. Provide that all new construction and substantial improvements within zone VE on
670 the community's FIRM have the space below the lowest floor either free of obstruction
671 or constructed with non-supporting breakaway walls, open wood lattice-work, or insect
672 screening intended to collapse under wind and water loads without causing collapse,
673 displacement, or other structural damage to the elevated portion of the building or
674 supporting foundation system. For the purposes of this section, a breakaway wall shall
675 have a design safe loading resistance of not less than 10 and no more than 20 pounds
676 per square foot. Use of breakaway walls which exceed a design safe loading resistance
677 of 20 pounds per square foot (either by design or when so required by local or state
678 codes) may be permitted only if a registered professional engineer or architect certifies
679 that the design proposed meets the following conditions:

680 a. Breakaway wall collapse shall result from water load less than that which
681 would occur during the base flood; and

682 b. The elevated portion of the building and supporting foundation system shall
683 not be subject to collapse, displacement, or other structural damage due to the
684 effects of wind and water loads acting simultaneously on all building
685 components (structural and non-structural). Maximum wind and water loading
686 values to be used in this determination shall each have a one percent chance of
687 being equaled or exceeded in any given year (100-year mean recurrence
688 interval).

689 c. If breakaway walls are utilized, such enclosed space shall be useable solely for
690 parking of vehicles, building access, or storage. Such space shall not be used for
691 human habitation.

692 5. Prohibit the use of fill for structural support of buildings within zone VE on the
693 community's FIRM.

694 6. Prohibit man-made alteration of sand dunes within zone VE on the community's FIRM
695 which would increase potential flood damage.

- 696 7. All manufactured homes to be placed or substantially improved within zone VE on the
697 community's FIRM on sites:
- 698 a. Outside of a manufactured home park or subdivision,
 - 699 b. In a new manufactured home park or subdivision,
 - 700 c. In an expansion to an existing manufactured home park or
701 subdivision, or
 - 702 d. In an existing manufactured home park or subdivision on which a
703 manufactured home has incurred "substantial damage" as the result of a flood;
704 shall meet the standards of paragraphs (1) through (6) of this section and
705 manufactured homes placed or substantially improved on other sites in an
706 existing manufactured home park or subdivision within zone VE on the FIRM
707 shall meet the requirements of Section A.4.
- 708 8. Recreational vehicles placed on sites within V or VE zones on the community's FIRM
709 shall either:
- 710 a. Be on the site for fewer than 180 consecutive days, or
 - 711 b. Be fully licensed and ready for highway use, on its wheels or jacking system,
712 attached to the site only by quick disconnect type utilities and security devices,
713 and have no permanently attached additions; or
 - 714 c. Meet the requirements of subsections (1) and (3) above and the anchoring
715 requirements for manufactured homes (Section A.1.b)

716
717 **16.46.060 Severability.**

718 If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or
719 unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect
720 the validity of the remaining portions of this Ordinance.

721
722 Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should
723 be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or
724 unconstitutionality shall not affect the validity or constitutionality of any other section, sentence,
725 clause or phrase or word of this ordinance.

726
727 Section 4. Effective Date: This ordinance or an approved summary thereof consisting of its
728 title shall be published in the City's official newspaper of record and shall take effect and
729 be in full force five days following its publication.

730
731 PASSED BY THE CITY COUNCIL THIS XX day of XXXXXXXX, 20XX, and signed in authentication
732 of its passage this XX day of XXXXXXXX, 20XX.

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734
735 APPROVED:
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ATTEST/AUTHENTICATED:

Sonja Springer, Finance Director

APPROVED AS TO FORM:

Rosemary Larson
City Attorney

ADOPTED BY THE CITY COUNCIL:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NUMBER:

Nicola Smith, Mayor

APPROVED AS TO FORM:

Rosemary Larson, City Attorney

**Topic: Development Agreement and
Binding Site Plan Code Amendments****Staff Report**
Agenda Item E.1

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

Staff Contact: Ashley Winchell, AICP, Planning Manager

Summary

The proposed code changes will expand flexibility provided through Development Agreements citywide. Flexibility through Development Agreements is currently only permitted in the City Center and Regional Growth Center. Proposed changes will also allow Binding Site Plans to vest to Development Agreement timelines.

Background

The redevelopment of the City Center and Regional Growth Center are vital to the success of the City of Lynnwood. Development agreements provide a tool for the City and Developer to work collaboratively on mutual agreed terms and conditions. The proposed amendment was prepared to improve the tool to facilitate development under the approval of City Council.

Proposed Amendment:

Development Agreements (DAs) are a tool to provide certainty and flexibility, when appropriate, to developments while negotiating for public benefits beyond the base requirements. Changes adopted to the Development Agreement code in 2019 allowed for flexibility and identified possible public benefits for developments within the City Center and Regional Growth Center.

The code amendment also includes a provision to amend the Binding Site Plan code (Chapter 19.75 LMC). A Binding Site Plan is an alternate process to subdivide non-single family residential property. Put simply, Binding Site Plans divide land into smaller lots that can be legally sold and developed, typically for commercial and mixed-use projects.

The proposed code amendments:

1. Expand Development Agreement eligibility citywide;
2. Allow for longer vesting periods to align with Development Agreement timelines;
3. Provide flexibility in Binding Site Plan requirements; and
4. Recoup costs for preparation of a Development Agreement.

The main purpose of this ordinance is to expand the benefits and flexibility of a Development Agreement citywide. It also clarifies approval timelines, as Development Agreements sometimes establish longer vesting periods than

permitted outright by the code. The proposed changes benefit the community by incentivizing development through flexibility and project timeline consistency.

The code amendment also proposes a mechanism to recoup some of the City's costs to prepare a Development Agreement. Currently, there are no costs to the applicant for Development Agreements. The City is responsible for paying for all city attorney fees and notification costs. The code amendment proposes a \$2,500 fee to be deposited to a trust fund. These fees would be used to cover city attorney fees and notification costs. If fees are accrued beyond \$2,500 they will be billed to the applicant and required to be paid before a City Council hearing. If excess fees remain after project approval they will be refunded to the applicant. Staff time would continue to be offered at no cost to the applicant.

All subdivisions, including Binding Site Plans, have two phases: preliminary and final. Preliminary Binding Site Plans show the overall site including proposed streets, lots and covenants for the review of a general layout. The final Binding Site Plan is the drawing of record for the County Auditor that shows all requirements per code. Recording of the Binding Site Plan officially divides the land. Before the Binding Site Plan can be recorded improvements, such as roads and utilities, must be constructed or bonded.

Currently, the code does not allow for phasing of subdivisions and requires all improvements associated with a Binding Site Plan to be constructed within three years of the approval of the preliminary Binding Site Plan. This has been identified and potentially problematic when associated with Development Agreements, which may have much longer timelines.

For example, a Development Agreement may vest a project over a 10-year time frame. Development may be completed in phases. The current structure of the code requires the developer to either:

1. Make all improvements at once. This can be cost-prohibitive and difficult since road and utility improvements are often constructed at the time of building construction; or
2. File several Binding Site Plans over the years. This is difficult for staff as they cannot assess the larger project at once and subjects the developer to greater uncertainties.

The proposed changes would allow the entire development to be reviewed at the time of preliminary Binding Site Plan. The phasing will be locked in with the approval of the Binding Site Plan and will correspond to the Development Agreement timing. The amendment will then allow each final Binding Site Plan to come in as phases. This allows the developer to only build what is necessary at the time of development. This is helpful as these improvements are often financially tied to individual building construction.

The amendment proposes breaking the Binding Site Plan fees into a preliminary payment and final payment. Currently the Binding Site Plan fee is a one-time payment of \$15,000. This includes review of the preliminary and final stage. The current fee structure does not take multiple final plat reviews into account. The

proposed fee structure is \$10,000 for preliminary review and \$5,000 for each final plat review. This ensures the city can recoup costs based on added work from proposed phasing.

The following is a proposed scenario of how a Binding Site Plan could be vested and developed under the proposed changes.

- In 2020 a Development Agreement is approved which allows for the construction of four buildings on three separate lots, two public roads, open space, and several utility and right-of-way improvements over 10 years.
- In 2020 the developer submits a preliminary Binding Site Plan which shows four phases as follows:
 - Phase 1: construction of one building on one lot, one public road, and associated utilities and right-of-way improvements.
 - Phase 2: construction of two buildings on one lot, open space, and associated utilities and right-of-way improvements.
 - Phase 3: construction of the fourth and final building on one lot, and all remaining roads and improvements.
- In 2022 the developer submits the final Binding Site Plan for phase 1. All required improvements are made, and the building is constructed. Lot 1 is created.
- In 2025 the developer submits the final Binding Site Plan for phase 2. All required improvements are made, and the two buildings are constructed. Lot 2 is created.
- In 2029 the developer submits the final Binding Site Plan for phase 3. All required improvements are made, and the building is constructed. Lot 4 is created.

At the time of Phase 3 the entire development would be constructed in accordance with the Development Agreement and preliminary Binding Site Plan.

Previous Planning Commission / City Council Action:

None

Administrative Recommendation:

Provide staff with feedback as they move forward with proposed changes.

Attachments:

1. Draft Amendments

DEVELOPMENT AGREEMENT AND BINDING SITE PLAN CODE AMENDMENTS

104.190 LMC Title 19 fees and charges.

The fees and charges set forth in Table 3.104.190 are the city of Lynnwood fees and charges related to the provisions of LMC Title 19.

Table 3.104.190 – LMC Title 19 Fees and Charges

Type of Fee	LMC TITLE 19 – SUBDIVISION FEES	
Boundary line adjustment		1,500.00
Lot combination		1,500.00
Subdivision		15,000.00
Short subdivision	Creating two lots	2,000.00
	Creating 3-9 lots	7,500.00
Preliminary Binding Site Plan		10,000.00
Final Binding Site Plan		5,000.00
City Attorney Support	Actual cost	
Hearing Examiner	Actual cost	
Public Notice Requirements		
Posting costs	Hourly rate (posting notification on proposed project site and civic sites)	
Mailing costs	Actual cost of postage plus staff hourly rate	
Publication in newspaper	Actual cost	

Table [3.104.210](#) – LMC Title [21](#) Fees and Charges

Type of Fee	LMC TITLE 21 – ZONING FEES	
Accessory Dwelling Unit		500.00
Administrative Amendment (LMC 1.35.180)		1,500.00
Conditional Use Permits		5,000.00
Development Agreements *		2,500.00
<p>* Development Agreement fees are deposits to trust accounts to cover city attorney fees and public notice costs. Excess funds will be refunded to the applicant. Costs over the original deposit shall be charged to the applicant and be paid prior to Council hearing.</p>		
Essential Public Facility	Local	1,500.00
	Regional or State	20,000.00
Miscellaneous Plan Review	Fee for review not related to a permit (e.g., parking lot)	263.00
Parking Alternatives Review		1,500.00
Planned Unit Development (PUD)		10,000.00
Preapplication Meeting		200.00
<p>*Fee credited towards development review charges.</p>		
Project Design Review	Under 5,000 gross sq. ft.	3,500.00
	5,000 gross sq. ft. and above	15,000.00
Reclassification (Rezone)		10,000.00
Variance, Single-Family		500.00
Variance, Standard (Non-Single-Family)		3,000.00
Wireless Communication Facility (WCF)		5,000.00

Table 3.104.210 – LMC Title 21 Fees and Charges

Type of Fee		LMC TITLE 21 – ZONING FEES	
Small wireless facility ¹ , permit review	Up to five small wireless facilities		500.00
	Each additional small wireless facility		100.00
Small wireless facility, right-of-way access and/or attachment to city-owned pole/structure	Per year, per pole/structure		270.00
Zoning Code Interpretation			1,000.00
Zoning Certification Letter			150.00
Signs with Searchlights	Per permit		86.00
City Attorney Support	Actual cost		
Hearing Examiner	Actual cost		
Public Notice Requirements			
Posting costs	Hourly rate (posting notification on proposed project site and civic sites)		
Mailing costs	Actual cost of postage plus staff hourly rate		
Publication in newspaper	Actual cost		

19.75.060 Time limits, extensions, ~~and~~ effect of preliminary binding site plan approval, and flexibility through development agreements.

A. The city shall approve, approve with conditions, disapprove or return to the applicant for modification all binding site plans within 90 days from the date of filing thereof unless the applicant consents to an extension of time; provided, that if an environmental impact statement (EIS) is required pursuant to Chapter [43.21C](#) RCW, or other environmental studies required for a determination of nonsignificance, or if a variance or other similar applications are required, the 90-day period shall not include time spent preparing and circulating a required EIS, or the time required for processing the other application(s).

~~B. The applicant shall have three years from the date of preliminary approval to submit to the city a final binding site plan meeting all requirements of this chapter. Failure to do so will result in the expiration of preliminary binding site plan approval. However, an applicant who files a written request with the mayor's office at least 30 days before the expiration shall be granted one one-year extension upon a showing that the applicant has attempted in good faith to submit the final binding site plan within the three-year period.~~

~~BC.~~ Approval of a preliminary binding site plan by the mayor is approval of the proposed binding site plan's design, and relationship with adjoining property. The engineering, construction and installation of improvements and final detail shall be subject to approval of the public works director. Approval of the preliminary binding site plan shall authorize the applicant to proceed with the preparation of the final binding site plan in conformance with the approved preliminary binding site plan and the conditions stipulated. Upon the approval of detailed construction plans by the public works director, construction and installation of the improvements may proceed.

~~C. The applicant shall have three years from the date of preliminary approval to submit to the city a final binding site plan meeting all requirements of this chapter. Failure to do so will result in the expiration of preliminary binding site plan approval. However, an applicant who files a written request with the mayor's office at least 30 days before the expiration shall be granted one one-year extension upon a showing that the applicant has attempted in good faith to submit the final binding site plan within the three-year period.~~

~~D. Binding site plan timing may be revised for flexibility when associated with an approved development agreement. When associated with an approved development agreement, time limits for preliminary and final binding site plan must be established at the time of preliminary binding site plan approval. The city may require the applicant to submit a single preliminary binding site plan showing the full extent of the project. The city may approve several subsequent final binding site plans to be recorded in phases. In no case shall the time frames for the binding site plan exceed the time frames of the development agreement.~~

21.29.010 Purpose.

Certainty in the development review process can significantly encourage development or redevelopment of real property. This certainty is especially important for large-scale or multiphase developments that take years to complete and that require substantial financial commitments at an early stage. The city may, when appropriate, enhance certainty by entering into a development agreement with a project sponsor that addresses the “ground rules” for review of the development application and construction of the project. A development agreement provides the opportunity for the city and the developer to agree on the scope and timing of the project, applicable regulations and requirements, mitigation requirements and other matters relating to the development process. A development agreement promotes the general welfare by balancing the public and private interests, providing reasonable certainty for a development project, and addressing other matters, including reimbursement over time for the financing of public facilities.

21.29.020 Authority.

A. Pursuant to RCW 36.70B.170 through 36.70B.210, the city council may approve and enter into a development agreement with any person, partnership, corporation or other entity that controls real property within the city or within the city’s urban growth area.

B. The city council may approve and enter into a proposed development agreement if the council finds, in its sole discretion, that the proposed agreement is consistent with the city’s comprehensive plan, the development regulations and the purpose of this chapter, and that entering into the agreement is in the city’s best interest.

21.29.030 Agreement contents.

A proposed development agreement shall, at a minimum, include provisions required by RCW 36.70B.170 through 36.70B.210, and shall set forth the development standards and other provisions that shall apply to and govern the use and development of the real property for the duration specified in the agreement. An agreement may also contain such other provisions as the city and the property owner or person controlling the property may mutually agree on, such as, but not limited to, the financing for or timing of mitigation and the vesting of development rights. A development agreement shall be consistent with applicable development regulations, including this chapter.

21.29.040 Public notice.

A. The applicable department director shall distribute the notice at least 20 calendar days before the hearing in the following manner:

1. Publishing the notice in the official newspaper of the city (LMC 1.08.010);
2. Posting the notice at the official posting place(s) of the city (LMC 1.12.010) and at the subject property so that the notice is readable from all adjacent public streets; and
3. Mailing the notice by regular mail to owners of property within at least 600 feet of the boundary of the subject property.

B. The notice requirement(s) of this section shall be satisfied by substantial compliance with such requirements.

21.29.050 Public hearing.

A. Prior to acting on a proposed development agreement, the city council shall hold a public hearing on the proposed agreement, at which time all those wishing to speak shall be heard. The applicable department director shall prepare a notice of the public hearing that contains the following:

1. Name of the property/project to which the agreement would apply;

2. Street address and/or a description of the property in nonlegal terms;
3. Statement that a development agreement is proposed for the subject property and reference to this chapter;
4. Brief summary of the proposed development agreement;
5. Date, time and place of the hearing; and
6. Statement of the right of any person to participate in the hearing.

~~21.29.070 — Decision criteria.~~

~~The city council may approve and enter into a proposed development agreement if the council finds, in its sole discretion, that the proposed agreement is consistent with the city's comprehensive plan, the development regulations and the purpose of this chapter, and that entering into the agreement is in the city's best interest.~~

21.29.090 Recording.

~~The applicant shall be responsible to record the agreement with the Snohomish County pursuant to RCW 36.70B 190. The development agreement shall include a provision that requires the applicant to record the agreement with the Snohomish County Auditor's Office.~~

21.29.100 Mobile home park preservation.

The owner of an existing mobile home park that is identified in policy MH-1 of the comprehensive plan may preserve the mobile home park pursuant to a development agreement that:

- A. Is processed and approved in accordance with this chapter;
- B. Preserves and maintains the mobile home park for a minimum term of five years, which term shall renew automatically for additional periods as agreed to by the city and the owner, unless the owner notifies the city and the residents and occupants of the mobile home park in writing of termination of the development agreement at least one year before the termination date;
- C. Includes special rates for water, surface water and sewer service as set forth in this code;
- D. Waives all permit, approval, processing and inspection fees for any construction or repair to maintain, operate or improve the mobile home park during the agreement period, and renewals thereof; and
- E. Contains additional terms and conditions that are agreed to by the owner and the city council.

~~21.29.200 Development agreement in the Regional Growth Center or City Center. Decision Criteria.~~

~~The City Council may utilize development agreements on properties located within the designated Regional Growth Center as adopted by the Puget Sound Regional Council or the Lynnwood City Center.~~

- A. ~~Additional Criteria for Approval. For development agreements within the Regional Growth Center and/or City Center, in addition to the criteria of LMC 21.29.070, t~~The City Council may enter into an agreement if the following criteria are met:-
 1. The ~~development~~ agreement must be consistent with ~~the comprehensive plan and any applicable subarea plan the City Center Subarea or Regional Growth Center Plan;~~

2. The agreement must provide public benefits, including but not limited to those provided in LMC 21.29.200.C, that would not otherwise be achieved under the Code. ~~and~~
 3. The City Council determines the agreement serves the public interest, including but not limited to achieving ~~the City Center Subarea~~ the comprehensive plan and any applicable subarea plan ~~or Regional Growth Center Plan~~ policies vision.;
 4. The property is not zoned single-family residential;
 5. The agreement must be consistent with the purpose of this chapter; and
 6. Entering into the agreement is in the public's best interest.
- B. Flexibility. The development agreement may provide flexibility to the following:
1. ~~Flexible~~ Development Regulations. The development agreement may provide flexibility in the development regulations by proposing alternative requirements as agreed to by City Council. In no case shall the development agreement allow uses that are not otherwise permitted under this title.
 2. Public Infrastructure Requirements. The development agreement may allow modifications to public infrastructure standards to achieve project implementation. Modifications shall provide equivalent or superior results when compared with strict compliance with adopted standards.
 3. Timing. The development agreement may provide flexibility in timing for any division of land, land use, or construction permit review, approval, expiration, or extension requirements.
- C. Public Benefits. The City Council may seek to balance flexibility for development with additional public benefits by incorporating public benefit elements into the development agreement. The development agreement may include, but ~~is~~ not limited to, benefits such as the following:
1. Sustainability. The support of sustainability may be sought by including any of the following:
 - a. Green Building standards such as USGBC LEED or equivalent are incorporated into the development. The level of certification may be determined at time of development agreement approval.
 - b. Electric Vehicle Charging Stations are provided throughout the development and are made available to the public.
 - c. Greenhouse Gas (GhG) inventories are conducted annually and reported to the City of Lynnwood.
 2. Affordable Housing. The development may be required to provide a portion of units to be affordable units. The range of income qualifications, number of units, and term length shall be determined at time of development agreement approval;
 3. Park and Open Space. Development may be required to dedicate a portion of land for the use of parks and open space as consistent with the adopted ~~Pparks-, Rrecreation, Oopen Sspace Pplan~~ and/or city center parks plan or any other applicable parks plan. Land dedication may be used to offset Park Impact Fees per LMC 3.107;
 4. Economic Benefits. The City Council may require an Economic Benefits Analysis to be conducted prior to or following the adoption of the development agreement;
 5. Public Infrastructure. The development agreement may outline public infrastructure improvements that ~~serve the City Center and~~ are provided by the developer. These projects may be credited to applicable service, connection, or impact fees;

6. Public Art and Placemaking. The development agreement may outline elements of public art and other placemaking methods that exceed currently adopted requirements; or
7. Other Public Benefits. The agreement may include other public benefits as proposed by an applicant and approved by the City Council.

21.29.300 Previously Approved Land Use Agreements.

Previously approved land use agreements including, but not limited to, contract rezones and concomitant zoning agreements are repealed following the approval of a Development Agreement. Any future changes to an approved contract rezone, concomitant zoning agreement, or similar land use agreement, shall be adopted as a Development Agreement.

DRAFT

Topic: Land Use Extension Ordinance

Agenda Item: E.2

Staff Report

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

Staff Contact: Kirk Rappe, Planner, Community Development

Summary

Some land use approval types have completion deadlines in the Lynnwood Municipal Code that during this economic downturn may be difficult for some applicants to meet. The proposed ordinance would extend the deadlines 180 days for certain approvals. It would also extend recording deadlines for certain approvals, such as Accessory Dwelling Units, from 10 to 30 days.

Background

The current economic downturn and uncertainty over when the Covid-19 pandemic will end has highlighted to staff some city-mandated land use deadlines that may be difficult for property owners and developers to meet.

City code provides 2 to 3 years, depending on land use application types, for applicants to complete infrastructure improvements or complete work permitted. Some land use approvals include an optional 1-year extension if approved by the Mayor. Despite having up to 3 or 4 years to complete projects, construction material supply chain disruptions, financing challenges, and contractors struggling with workforce challenges means projects have been slowed.

Recording deadlines in our code are also more difficult to meet with county offices closed. Recording documents with the county requires mailing hard copies to Snohomish County records and awaiting processing. In the case of Accessory Dwelling Units, this ordinance will extend the recording deadline from 10 to 30 days.

Snohomish County, Lake Stevens, and Bothell are just a few governments that have passed similar extensions.

The proposed ordinance will automatically extend approvals an additional six months for at least an additional 180 days.

Previous Planning Commission / City Council Action

None

Adm. Recommendation

Provide staff with feedback on proposal.

Attachments

None

TO: Planning Commission

FROM: David Kleitsch, Interim Community Development Director
Ashley Winchell, Interim Planning Manager

DATE: August 13, 2020

SUBJECT: Director and Planning Manager's Report

Community Transit Orange Line Interlocal Agreement

An interlocal agreement is proposed between Community Transit and City of Lynnwood for implementation of the *Swift* BRT – Orange Line. The new service will connect Edmonds College to McCollum Park Park & Ride with stations in City Center and Alderwood.

The proposed interlocal agreement is to implement the third bus rapid transit (BRT) service by Community Transit. BRT differs from local services as BRT aims for higher capacities more efficiently. This includes improved station areas for faster boarding and to limit stoppage time. The *Swift* BRT lines include raised station platforms and pay before boarding stations.

The proposed *Swift* Orange Line will provide an east-west connection from Edmonds College to McCollum Park Park & Ride via City Center and Alderwood. This new service will intersect with the existing *Swift* Blue Line and *Swift* Green Line. Additional connections include Swamp Creek Park and Ride, Ash Way Park and Ride, and Mill Creek Town Center.

The agreement includes clarification on municipal requirements related to permitting, maintenance obligations, right-of-way acquisitions, as well as fee schedules and station design. The use of an agreement is consistent with previous agreements regarding the *Swift* Blue Line.

The City Council will make a decision on the ILA at the August 10, 2020 City Council meeting.

Housing Action Plan Virtual Open Houses

See the attached flyer for information on the upcoming Housing Action Plan Virtual Open House. Please share it with your community!

Vision 2050

The Puget Sound Regional Council is extending the region's long-term plan to 2050. As the region prepares to add 1.8 million more people and 1.2 million more jobs in the coming decades, VISION 2050 will provide a guide for sustaining a healthy environment, thriving communities, and a strong economy.

VISION 2050 addresses several priority policy topics:

- Focus on social equity and access to opportunity in all aspects of the plan.
- Plan for how and where regional growth should occur.
- Address housing choice and affordability.
- Protect and restore the natural environment.
- Promote thriving communities and shared prosperity across the region.
- Support an integrated multimodal transportation network.

On January 16, 2020, the Executive Board received the Growth Management Policy Board Recommended draft VISION 2050 plan (December 2019). Action by the Executive Board on VISION 2050 was delayed as a result due to COVID-19 and restrictions on in-person meetings. Final adoption is expected in Fall 2020.

The Multicounty Planning Policies set forth in Vision 2050 will direct Countywide Planning Policies and the Lynnwood Comprehensive Plan 2024 update. More information can be found at the following link: <https://www.psrc.org/vision>

Countywide Planning Policies

Staff is participating in a workgroup through Snohomish County Tomorrow to update the Countywide Planning Policies in preparation for the Lynnwood Comprehensive Plan 2024 update. Countywide Planning Policies (CPPs) establish a countywide framework for developing and adopting county and city comprehensive plans. The role of the CPPs is to coordinate comprehensive plans of jurisdictions in the same county for regional issues or issues affecting common borders.

Buildable Lands Report

The purpose of the Buildable Lands Report is to review the urban densities that are being achieved within both the city and county portions of the Urban Growth Area (UGA) and, based on the densities achieved, determine whether the UGA has an adequate supply of suitable residential, commercial and industrial land to accommodate the population and employment growth projected to occur during the remaining portion of the 20-year GMA

planning horizon. If not, jurisdictions are required to take corrective actions (reasonable measures) that do not include adjustment of UGA boundaries.

The following is an update to the current status of the 2021 Buildable Lands Report (BLR) being prepared by Snohomish County and due under the Growth Management Act by June 30, 2021:

- The Snohomish County Tomorrow (SCT) Steering Committee last month approved the SCT Planning Advisory Committee’s recommended updates to the SCT Buildable Lands Procedures Report and Reasonable Measures Program documents at their June 24, 2020 regular meeting
- The 2021 BLR webpage (<https://www.snohomishcountywa.gov/1352/Buildable-Lands>) has been updated with the results of the SCT updates to the above two BLR guidance documents.
- A proposed briefing to the County Council’s Planning Committee in January 2021 on the SCT-approved updates to the BLR Procedures Report as well as a status report on the 2021 BLR analysis with the cities is being planned.

Permit Activity Reports

The most recent Permit Activity Report is attached to this memo.

Q3 2020 Schedule

August	27	Housing Action Plan: Needs Assessment – Joint meeting with Human Services Commission and Diversity, Equity and Inclusion Commission	Work Session ** Staff suggests moving work sessions to top of the docket
		Development Agreement / BSP Code Amendments	Public Hearing
		Land Use Application Extensions	Public Hearing
September	10	City Center Updates	Work Session
		Vision 2050 / CPP Updates	Work Session
September	24	ST3 Updates	Work Session
		Connect Lynnwood	Work Session
October	8	South Lynnwood Neighborhood Plan - Recommendations Update	Work Session
		Housing Action Plan - Recommendations Update	
October	22	Title 1.35 Code Intro	Work Session
		2024 Comprehensive Plan Update	Work Session



You're Invited!

Lynnwood's Housing Action Plan Virtual Open House

Join us for a virtual open house for Lynnwood's **Housing Action Plan**. At this virtual open house you will learn about Lynnwood's housing needs and provide your suggestions.

How to Get Involved

Virtual Open House Meetings

The Virtual Open House will include 2 live presentations with time for community questions and answers. The same information will be presented at both meetings so attend whichever meeting works best for you. Recordings of the meetings will also be available online.

The meetings will be held via Zoom. The same link will be used for both meetings.

Meeting Dates:

- Tuesday, August 25 from 6:00 – 8:00 PM
- Tuesday, August 26 from 3:00 – 5:00 PM

How to attend the Virtual Open House Meeting:

- **Zoom:** <https://lynnwoodwa.zoom.us/j/93630132992>
- **Phone:** (253) 215-8782, Webinar ID 936 3013 2992
- **Facebook Live:** <https://www.facebook.com/LynnwoodWA>

Open House Website

An Open House Website will be available from August 24 – September 21. The website will provide information about the plan, surveys and other opportunities to share feedback. A link to the Open House Website will be posted to the following website www.lynnwoodwa.gov/housingactionplan.

For more information contact Kristen Holdsworth at kholdsworth@lynnwoodwa.gov or 425-670-5409.

Report Run Date:
8/3/2020

Monthly Permit Building Valuation



<u>Issue Year</u>	<u>Month</u>	<u>One & Two Family</u>	<u>Commercial/Multi-Family</u>	<u>Misc Signs & Fences</u>	<u>Electrical</u>	<u>Grand Totals</u>
2020	January	\$2,120,042.29	\$1,300,094.00	\$86,762.00	\$205,870.60	\$3,712,768.89
2020	February	\$2,814,218.26	\$1,915,504.00	\$105,540.48	\$630,754.28	\$5,466,017.02
2020	March	\$1,102,490.73	\$1,772,817.60	\$124,675.00	\$6,384,851.80	\$9,384,835.13
2020	April	\$831,236.53	\$213,046.00	\$17,970.00	\$182,216.00	\$1,244,468.53
2020	May	\$2,829,218.97	\$27,967,132.16	\$24,350.00	\$377,977.00	\$31,198,678.13
2020	June	\$3,368,349.15	\$45,083,495.00	\$30,300.00	\$6,494,372.97	\$54,976,517.12
Totals:		\$13,065,555.93	\$78,252,088.76	\$389,597.48	\$14,276,042.65	\$105,983,284.82

Month by Year, Valuation Totals:

Annual Valuation Totals:

<u>Issue Year</u>	<u>Month</u>	<u>Grand Totals</u>
2020	June	\$54,976,517.12
2019	June	\$20,445,090.62
2018	June	\$19,028,473.23
2017	June	\$11,512,506.81
2016	June	\$3,685,655.66

<u>Issue Year</u>	<u>Grand Totals</u>
2020	\$105,983,284.82
2019	\$44,616,674.41
2018	\$109,781,500.07
2017	\$40,610,255.96
2016	\$64,605,597.81

