

**LYNNWOOD
CITY COUNCIL
Work Session**

Date: Monday, June 1, 2020

Time: 7:00 PM

**Place: This meeting will be held electronically via
Zoom. See the City of Lynnwood website for
details.**

**This agenda complies with Governor
Inslee's Proclamation #20-28 and the
Washington State Attorney General's
Guidance on the Open Public Meetings
Act dated March 26, 2020.**

- | | | |
|---------|----------|--|
| 7:00 PM | A | Comments and Questions on Memo Items |
| 7:05 PM | B | COVID-19 Update |
| 8:05 PM | C | Briefing: Impacts of COVID-19 on Municipal Court Operations |
| 8:20 PM | D | Briefing: Impacts of COVID-19 on South County Fire Department Operations |
| 8:35 PM | E | Mayor Comments and Questions |
| 8:40 PM | F | Council President and Council Comments |
| 8:45 PM | G | Executive Session: Labor Relations |
| | | Adjourn |

Memorandums for Future Agenda Items:

- M-1 Ordinance: Interim Floodplain Development Regulations

Memorandums for Your Information:

- FYI-1 South Lynnwood Neighborhood Plan Update
- FYI-2 Housing Action Plan Update
- FYI-3 Ordinance 3358 - Executive Veto and Written Objections

Contact: Executive Office (425) 670-5001

CITY COUNCIL ITEM A

CITY OF LYNNWOOD City Council

TITLE: Comments and Questions on Memo Items

DEPARTMENT CONTACT: Nicola Smith, Mayor

DOCUMENT ATTACHMENTS

Description:

Type:

No Attachments Available

CITY COUNCIL ITEM B

CITY OF LYNNWOOD City Council

TITLE: COVID-19 Update

DEPARTMENT CONTACT: Christine Frizzell, Council President

SUMMARY:

The City continues to monitor and respond to the COVID-19 emergency. The Council will receive an update from City staff.

DOCUMENT ATTACHMENTS

Description:

Type:

No Attachments Available

CITY COUNCIL ITEM C

CITY OF LYNNWOOD Executive

TITLE: Briefing: Impacts of COVID-19 on Municipal Court Operations

DEPARTMENT CONTACT: Paulette Revior, Court Administrator

SUMMARY:

Court Administrator Paulette Revior will brief Councilmembers on how the COVID-19 health crisis has impacted Lynnwood Municipal Court operations.

FUNDING:

NA

DOCUMENT ATTACHMENTS

Description:

[Municipal Court Memo 060120](#)

Type:

Backup Material

MEMORANDUM

Date: May 26, 2020

To: Lynnwood City Council

From: Stephen E. Moore, Presiding Judge
Paulette N. Revoir, Court Administrator

Re: Municipal Court – COVID 19 Update

On March 17, 2020 In accordance with Supreme Court Order 257-B-602 and Lynnwood Municipal Court General Administrative Order 2020-001. Presiding Judge Stephen E. Moore closed the Municipal Court Clerk's Office to the public.

During this time, the business of the court marched on. Our responsibility to the public to provide access to justice, maintain the rule of law, and resolve disputes did not change. What did change is the way the Municipal Court fulfilled those responsibilities. Our team quickly adapted to the "new normal" caused by the COVID-19 national health crisis. The Lynnwood Police Department continued to file cases into the court, staff continued to answer phones, and respond to email during our closure. All other matters apart from out custody hearings continued in normal course.

Our implementation of OCourt software 3 years prepared us to work efficiently and remotely during this pandemic. Our electronic forms and files are easily accessible from any location with an internet connection. Our courtroom became virtual overnight. Other courts in the region who are still very reliant on paper processes and files were not able to adapt as quickly.

Here I have highlighted a few of the judicial and operational changes that occurred.

- All out of custody hearings for criminal, infractions and photo enforcement cases continued for at least 60 days.
- All jury trials and juror management were suspended.
- All in custody hearings were heard via video using Zoom technology.
- Emergency out of custody hearings to order surrender of weapons, alcohol-sensing devices, issuance of DV No Contact Orders, ignition interlock installations, etc. were conducted telephonically.
- 6 of the 11-court staff began telecommuting from home.
- Collection of delinquent fines and/or fees were scaled back.

- All previously scheduled commitment dates were rescheduled to assist with the Lynnwood Jail's daily population.

Lynnwood Municipal Court is a high-volume high traffic court which makes planning to re-open our court clerk's office and courtroom extremely challenging. The court's very small footprint in the current criminal justice center makes it difficult to accommodate our full case load while maintaining appropriate distance between people and maintaining the same level of customer service that our community expects and deserves.

Social distancing maybe part of our lives for quite some months ahead. The court team will struggle with spacing challenges until social distancing requirements are lifted.

Here are a few of the judicial and administrative operational changes we are making to accommodate our safe re-opening.

- Social Distancing, facial coverings, and hand sanitation requirements established.
- Procedures for telephone and/or video for out of custody hearings established.
- Temporary help hired to assist with directing lobby traffic and enforcing social distancing and PPE requirements.
- Clerk's office staff desk assignments revised to accommodate social distancing.
- The courtroom and lobby areas marked and numbered.
- Internal policies established to address social distancing within the court clerk's office and break room areas.
- 5 court team members will continue to telecommute.
- Spit guards installed in the courtroom at the clerk's workstation and judge's bench.
- Hand sanitizing stations placed by the courtroom and clerk's office doors.
- Court re-opening information shared with the public via the court's website and a press release.
- Additional court calendars scheduled to manage the backlog of cases.
- Collection of delinquent fines and fees will resume with our new collection agency Linebarger Goggan Blair & Sampson, LLP.
- Jury Trials continue to be suspended until at least August 2020.

The Court is grateful to City Leadership and staff for all the guidance and help we have received over the past 10 weeks. We would specifically like to thank Commander Steichen, Director Chinn and the entire HR team, Julie Moore, Commander Deppa and the entire jail staff, Johnnie Dunn and his facilities team, and last but not least Director Cena, Robert Bartram, Jonas Thompson and the entire IT team. This has truly been a "whole of government" response and effort. We could not have done this alone.

CITY COUNCIL ITEM D

CITY OF LYNNWOOD Executive

TITLE: Briefing: Impacts of COVID-19 on South County Fire Department Operations

DEPARTMENT CONTACT: Thad Hovis, Interim Fire Chief, South County Fire

SUMMARY:

Interim Fire Chief Hovis will brief Councilmembers on how the COVID-19 health crisis has impacted South County Fire operations.

FUNDING:

NA

DOCUMENT ATTACHMENTS

Description:

[SCF Covid-19 Impact Memo 060120](#)

Type:

Backup Material



DATE: June 1, 2020
TO: Mayor Nicola Smith
CC: Lynnwood City Council
FROM: Thad Hovis, Interim Fire Chief
SUBJECT: Impact of COVID-19 brief

On January 21, 2020 South County Fire (SCF) assisted in the transport of the first confirmed COVID-19 patient in the United States. SCF worked in conjunction with the CDC, state and local health officials to safely transport the patient to Providence Medical Center in Everett.

SCF implemented additional measures to protect the public and providers. Snohomish County 911 (Sno911) implemented pre-screening measures for emergency calls, which alerted personnel for the need to don appropriate personal protective equipment (PPE).

SCF's COVID-19 response has been both busy and dynamic, however the following are general highlights of pivotal moments or adaptations we have made during the pandemic to minimize risk to our workforce and continue to provide our essential services to the public.

March 3, 2020 Snohomish County declared a state of emergency.

COVID-19 Checklist was developed and distributed to all suppression personnel providing guidance on PPE, decontamination procedures, and transporting guidelines. This document was dynamic and changed daily during the first 3-4 weeks of the pandemic. This 3-page document evolved into a 17-page "COVID-19 Playbook" that has been distributed and used by all Snohomish County fire agencies.

March 4, 2020 Mayor Smith signed an Emergency Proclamation for the City of Lynnwood.

March 5, 2020 SCF's Fire Operations Center (FOC) was activated at SCF HQ, where all SCF Chief Officers, SCF's Medical Program Director, Snohomish County's Medical Program Director and support staff were centralized to monitor the evolving COVID-19 situation.

All in-person training/drills for crews were suspended until further notice. Training is still limited according to the Governor's guidelines.

A SCF Deputy Chief was staffed at Snohomish County DEM's Emergency Coordination Center (ECC) to be the SCF Liaison detailed to the ESF-4 firefighting annex position. This individual worked with others to order and coordinate logistics (including PPE) for all of

Snohomish County Fire/EMS agencies.

All SCF personnel were fit tested to N95 masks, or others as needed. Fit testing needed to be completed before staff could work.

March 6, 2020 SCF's initial Incident Action Plan (IAP), Checklist Protocols and Situational Reports (SitReps) were distributed to all staff and internal and external elected officials and/or EOC's.

March 9, 2020 Snohomish County Fire Chiefs and Sno911 started daily virtual meetings to review data throughout the county, assess response peaks, collaborate and prepare response plans.

ALL EMS responses were upgraded to the highest level of PPE protection to include gloves, goggles, and N95 masks.

March 10, 2020 All Operational staff, regardless of agency, were restricted from entering SCF HQ. The objective was to reduce cross contamination among operational and command staff.

March 11, 2020 All SCF facilities were closed to citizens and visitors, including family members. Self-assessment check points were instituted at each station and HQ at one entry point.

March 16, 2020 SCF suspended all "company level" building inspections in the City of Lynnwood, Mountlake Terrace, Edmonds and Brier.

March 21, 2020 All updates to the COVID-19 Checklist or IAPs were loaded into our electronic training platform as a daily assignment for suppression personnel.

Support 7 suspended in person Chaplain/Support 7 response.

March 23, 2020 "Non-essential" civilian staff were provided needed technology and operational materials to start to work remotely.

All offers of donations were forwarded to the ECC for distribution throughout the County as needed.

March 25, 2020 Personalized "essential personnel" cover letters and ID cards were created and issued to all SCF employees.

March 27, 2020 Implemented a sick leave response flow chart. Team of MPD, HR Director, HR Analyst, and 2 MSO's that are DICO certified (Designated Infection Control Officers) virtually screened and monitored SCF employees on sick leave.

Snohomish County Chiefs created a short video at the Oso Landslide Memorial, in an effort to encourage social distancing, and give hope and reassurance to the Snohomish County community, that the fire service is united and will be there to respond when needed.

- April 2, 2020 The SCF FOC transitioned into a Joint Snohomish County FOC hosted at SCF's HQ, which provided command and control of Fire/EMS to over 80% of the county's population. The following agencies participated in the joint FOC: Arlington Fire, Everett Fire, North County Fire, Marysville Fire, Mukilteo Fire, Paine Field Fire, SCFD7 and SCFD15.
- April 27, 2020 Surgical masks were mailed to civilian employees and their families, as well as volunteers and elected officials to provide additional resources to reduce risk. Masks were also made available to firefighters to voluntarily wear while on-duty.
- April 29, 2020 Decontamination UV-C devices were purchased and distributed throughout all RFA facilities as well as EMS apparatus to sanitize items such as portable radios and cell phones that cross over between shift employees, as well as allow for N-95 masks to be reused (under stringent guidelines).
- May 15, 2020 Submission for potential federal grant reimbursement for COVID-19 related PPE was coordinated through the ECC for all Snohomish County fire agencies.

To date, SCF has transported approximately 200 confirmed COVID-19 positive patients. We have had zero active employees test positive for COVID-19.

SCF's Senior Leadership Team and the Snohomish County Fire Chiefs Association have been openly discussing what our "next steps" or "recovery" within the Governor's phased approach looks like. Ultimately, decisions made by the Governor, the state DOH and the county's Public Health officer will be instrumental in what our "new normal" looks like in the weeks and months ahead, but collectively the county Fire Chiefs have agreed to move their fire departments in tandem to ensure that Fire/EMS does not get caught in or become a vector to the public if/when subsequent waves of COVID-19 re-emerge.

I am exceptionally proud of the COVID-19 response by SCF first responders and civilian staff. They have handled this unprecedented emergency with professionalism, determination and grace. I also would like to compliment the city's first responders and staff for their response as well during the pandemic, and the consistent information sharing and collaboration that has taken place between the city and the RFA since late January.

CITY COUNCIL ITEM E

CITY OF LYNNWOOD City Council

TITLE: Mayor Comments and Questions

DEPARTMENT CONTACT: Nicola Smith, Mayor

DOCUMENT ATTACHMENTS

Description:

Type:

No Attachments Available

CITY COUNCIL ITEM F

CITY OF LYNNWOOD City Council

TITLE: Council President and Council Comments

DEPARTMENT CONTACT: Christine Frizzell, Council President

DOCUMENT ATTACHMENTS

Description:

Type:

No Attachments Available

CITY COUNCIL ITEM G

CITY OF LYNNWOOD Executive

TITLE: Executive Session: Labor Relations

DEPARTMENT CONTACT: Evan Chinn, Human Resources Director

DOCUMENT ATTACHMENTS

Description:

Type:

No Attachments Available

CITY COUNCIL ITEM M-1

CITY OF LYNNWOOD Public Works

TITLE: Ordinance: Interim Floodplain Development Regulations

DEPARTMENT CONTACT: Derek Fada, Environmental and Surface Water Supervisor

SUMMARY:

The FEMA National Flood Insurance Program (NFIP) was established with the passage of the National Flood Insurance Act of 1968. The NFIP is a federal program enabling property owners in participating communities to purchase flood insurance as protection against flood losses, while requiring state and local governments to enforce floodplain management ordinances that aim to reduce future flood damage. Lynnwood is a participating community and has been for over 30 years.

The City of Lynnwood desires to continue to participate in the NFIP and must update its Flood Hazard Area Regulations for consistency with current federal requirements by June 19th, 2020 in order to continue doing so. Due to COVID-19, public hearings are not being held before the City Council, and therefore these regulations cannot be updated at this time.

RCW 35A.63.220 and RCW 36.70A. 390 authorize the City Council to immediately adopt interim regulations and interim official controls without first holding a public hearing, to be effective for a period of up to six (6) months, so long as the City Council holds a public hearing on the interim regulations within sixty (60) days of the ordinance's adoption.

Unless the City adopts the attached interim regulations to amend the City's Flood Hazard Area code provisions consistent with federal law, the City's ability to participate in NFIP will lapse and property owners in the City will be unable to obtain certain flood insurance.

ACTION:

Adopt the proposed interim ordinance, updating the City's Floodplain Development Regulations (LMC 16.46), and establish a date for a public hearing on the interim regulations for July 27th, if not before.

FUNDING:

There are no budgetary impacts associated with this action.

ADMINISTRATION RECOMMENDATION:

Adopt the interim ordinance, and continue to participate in the FEMA Flood Insurance Program.

DOCUMENT ATTACHMENTS

Description:	Type:
Interim Ordinance Floodplain Regulations	Backup Material



ORDINANCE NO. XXXX

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LYNNWOOD, WASHINGTON, ESTABLISHING INTERIM FLOOD
HAZARD AREA REGULATIONS; AMENDING CHAPTER 16.46 OF
THE LYNNWOOD MUNICIPAL CODE; SETTING A DATE FOR A
HEARING ON THE INTERIM REGULATIONS; AND PROVIDING FOR
SEVERABILITY, AN EFFECTIVE DATE, AND SUMMARY
PUBLICATION.**

WHEREAS, the City of Lynnwood has areas designated by the Federal Emergency Management Agency (FEMA) as Special Flood Hazard Areas inundated by a 100-year flood; and

WHEREAS, FEMA requires the City to adopt flood plain management measures and regulations that are consistent with 44 Code of Federal Regulations (CFR) Section 60.3 of the National Flood Insurance Program regulations; and

WHEREAS, consistent with federal requirements at the time, the City adopted Flood Hazard Area regulations, codified at Chapter 16.46 of the Lynnwood Municipal Code, which in part regulate the development of land within the areas designated as Special Flood Hazard Areas; and

WHEREAS, the City of Lynnwood participates in the National Flood Insurance Program (NFIP), 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 NFIP, and must update its Flood Hazard Area Regulations for consistency with current federal requirements by June 19th, 2020 in order to do so; and

WHEREAS, adoption of amendments to development regulations are subject to a public hearing process, among other procedural requirements; and

WHEREAS, on March 23, 2020, Governor Inslee issued the "Stay Home, Stay Healthy" proclamation (Proclamation 20-25) prohibiting all people in Washington State from leaving their homes and participating in gatherings of any kind, except for limited activities; and

WHEREAS, the Governor has extended Proclamation 20-25, and has established a four phase re-opening plan, but the four phase plan is not expected to be fully implemented until mid-July at the earliest; and

WHEREAS, consistent with Proclamation 20-25, Governor Inslee issued Proclamation 20-28, as amended and extended, which prohibits in-person meetings that are subject to the Open Public Meetings Act and places restrictions on the conduct of Open Public Meetings Act meetings for so long as Proclamation 20-28 is in effect; and

WHEREAS, the City needs additional time to complete the procedures, including a public hearing, necessary for the adoption of the permanent amendments to the City's Flood Hazard Area regulations as required by FEMA for participation in the NFIP; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A. 390 authorize the City Council to immediately adopt interim regulations and interim official controls without first holding a public hearing, to be effective for a period of up to six (6) months, so long as the City Council holds a public hearing on the interim regulations within sixty (60) days of the ordinance's adoption; and

WHEREAS, unless the City adopts interim regulations to amend the City's Flood Hazard Area code provisions consistent with federal law, the City's ability to participate in NFIP will lapse and property owners in the City will be unable to obtain certain flood insurance; and

WHEREAS, the City Council adopts the foregoing recitals as its findings of fact justifying the adoption of these interim regulations to protect the public health, safety and welfare of the residents and property owners of the City; and

WHEREAS, the City Council finds that due to COVID-19, an emergency exists and this interim ordinance is necessary for continued participation in the FEMA NFIP until such time as a public hearing can be held; and

WHEREAS, the City Council after due consideration has determined that the interim regulations stated in this Ordinance are in the best interests of the public and necessary for the protection of the public health, safety, and general welfare; now, therefore

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

Section 1: Findings. The recitals set forth above are hereby adopted as the City Council's findings in support of the interim regulations stated in this Ordinance. The City Council may, in its discretion, adopt additional or revised findings at the conclusion of the public hearing referenced in Section 4 below.

Section 2: Amendments. Chapter 16.46 of the Lynnwood Municipal Code 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;
2. Minimize expenditure of public money and costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
6. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
7. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
8. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

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

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging, and other development which may increase flood damage; and
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

16.46.020 Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Flood” or “flooding” means:

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

a. The overflow of inland or tidal waters; ~~and/or~~

b. The unusual and rapid accumulation of runoff of surface waters from any source; and/or

c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

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

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

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

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

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

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

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

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

217 “Highest adjacent grade” means the highest natural elevation of the ground surface prior to
218 construction next to the proposed walls of a structure.

219 “Historic structure” means any structure that is:

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

223 2. Certified or preliminarily determined by the Secretary of the Interior as contributing
224 to the historical significance of a registered historic district or a district preliminarily
225 determined by the Secretary to qualify as a registered historic district;

226 3. Individually listed on a state inventory of historic places in states with historic
227 preservation programs which have been approved by the Secretary of Interior; or

228 4. Individually listed on a local inventory of historic places in communities with historic
229 preservation programs that have been certified either:

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

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

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

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

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

247 “Mean sea level” for purposes of the National Flood Insurance Program, the vertical datum to
248 which Base Flood Elevations shown on a community's Flood Insurance Rate Map are
249 referenced.

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

257 “New manufactured home park or subdivision” means a manufactured home park or
258 subdivision for which the construction of facilities for servicing the lots on which the
259 manufactured homes are to be affixed (including at a minimum, the installation of utilities, the

construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted flood plain management regulations.

“Recreational vehicle” means a vehicle which is:

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

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

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

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

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

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

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

1. Any project for improvement of a structure to ~~comply~~ correct existing violations of state or local health, sanitary, or safety code specifications that have been previously identified by the local code enforcement official and which are ~~solely~~ the minimum necessary to assure safe living conditions; or

2. Any alteration of a historic structure ~~listed on the National Register of Historic Places or a State Inventory of Historic Places.~~ provided that the alteration will not preclude the structure's continued designation as a historic structure.

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

"Water dependent" means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

16.46.030 General provisions.

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

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

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

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

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

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

F. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This legislation does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This legislation shall not create liability on the part of the city of Lynnwood, any

officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from the reliance on this legislation or any administrative decision lawfully made thereunder.

16.46.040 Administration.

A. Establishment of Development Permit.

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

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

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

3. No development permit will be issued for construction or development in Zones V or VE.

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

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

1. Permit Review.

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

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

3. Information to be Obtained and Maintained.

- a. ~~Where base flood elevation data is provided through the Flood Insurance Study or required as in subsection (C)(2) of this section, O~~Obtain and ~~record~~ maintain the actual (as-built) elevation ~~(in relation to mean sea level)~~ of the lowest floor, including basement, of all new or substantially improved structures, and whether or not the structure contains a basement;
- b. For all new or substantially improved floodproofed structures:
 - i. Verify and record the actual elevation ~~(in relation to mean sea level)~~ to which the structure was floodproofed; and
 - ii. Maintain the floodproofing certifications required in subsection (A)(2)(c) of this section; and
- c. Maintain for public inspection all records pertaining to the provisions of this legislation.

4. Alteration of Watercourses.

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

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

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

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

D. Variance Procedure.

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

- 436 a. The appeal board shall hear and decide appeals and requests for variances
437 from the requirements of this legislation;
- 438 b. The appeal board shall hear and decide appeals when it is alleged there is an
439 error in any requirement, decision or determination made by the director of
440 public works in the enforcement of this legislation;
- 441 c. Those aggrieved by the decision of the appeal board may appeal such decision
442 to the Snohomish County superior court as provided by law;
- 443 d. In passing upon such applications, the appeal board shall consider all technical
444 evaluations, all relevant factors, standards specified in other sections of this
445 legislation; and
 - 446 i. The danger that materials may be swept onto other lands to the injury
447 of others;
 - 448 ii. The danger to life and property due to flooding or erosion damage;
 - 449 iii. The susceptibility of the proposed facility and its contents to flood
450 damage and the effect of such damage on the individual owner;
 - 451 iv. The importance of the services provided by the proposed facility to
452 the community;
 - 453 v. The necessity to the facility of a waterfront location, where applicable;
 - 454 vi. The availability of alternative locations for the proposed use which are
455 not subject to flooding or erosion damage;
 - 456 vii. The compatibility of the proposed use with existing and anticipated
457 development;
 - 458 viii. The relationship of the proposed use to the comprehensive plan and
459 flood plain management program for that area;
 - 460 ix. The safety of access to the property in times of flood for ordinary and
461 emergency vehicles;
 - 462 x. The expected heights, velocity, duration, rate of rise, and sediment
463 transport of the flood waters and the effects of wave action, if applicable,
464 expected at the site;
 - 465 xi. The costs of providing governmental services during and after flood
466 conditions, including maintenance and repair of public utilities and
467 facilities such as sewer, gas, electrical, and water systems, and streets
468 and bridges;
- 469 e. Generally, the only condition under which a variance may be issued is for new
470 construction and substantial improvements to be erected on a lot of one-half
471 acre or less in size contiguous to and surrounded by lots with existing structures
472 constructed below the base flood level, providing items (i) through (xi) in
473 subsection (D)(1)(d) of this section have been fully considered. As the lot size
474 increases beyond the one-half acre, the technical justification required for
475 issuing the variance increases;

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

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

2. Conditions for Variances.

a. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (1) through (11) in subsection (D)(1)(d) of this section have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases;

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

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

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

e. Variance shall only be issued upon:

i. A showing of good and sufficient cause;

ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances;

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

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

h. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that the issuance of a variance to construct a structure ~~will be permitted to be built~~ with a lowest floor elevation below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and that such construction below the BFE increases risks to life and property. ~~and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation~~

16.46.050 Provisions for flood hazard protection.

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

1. Anchoring.

- a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- b. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors. (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques.)

2. Construction Materials and Methods.

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- c. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Utilities.

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

4. ~~Subdivision~~ Development Proposals.

- a. All ~~subdivision~~ development proposals, including subdivisions and manufactured home parks, shall be consistent with the need to minimize flood damage;

- b. All ~~subdivision~~ development proposals, including subdivisions and manufactured home parks, shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- c. All ~~subdivision~~ development proposals, including subdivisions and manufactured home parks, shall have adequate drainage provided to reduce exposure to flood damage; and
- d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for all development ~~subdivision~~ proposals, including subdivisions and manufactured home parks, ~~and other proposed developments which contain at least~~ greater than 50 lots or five acres (whichever is the lesser).
5. Review of Building Permits. Where elevation data is not available, either through the Flood Insurance Study or from another authoritative source, LMC 16.46.040(C)(2), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.
- B. Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in LMC 16.46.030(B), Basis for Establishing the Areas of Special Flood Hazard or LMC 16.46.040(C)(2), Use of Other Base Flood Data, the following provisions are required:
1. Residential Construction.
 - a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or one foot or more above base flood elevation.
 - b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or if used solely for parking, access or storage, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - ii. The bottom of all openings shall be no higher than one foot above grade.
 - iii. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.
 2. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of one foot or more above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- a. Be floodproofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- c. Be certified by a registered professional engineer or architect that the design and methods of construction are in conformance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in LMC 16.46.040 (C)(3)(b);
- d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (B)(1)(b) of this section;
- e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to one foot above the base flood level will be rated as at the base flood level).

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

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

- a. All manufactured homes to be placed or substantially improved on sites:
 - i. Outside of a manufactured home park or subdivision;
 - ii. In a new manufactured home park or subdivision;
 - iii. In an expansion to an existing manufactured home park or subdivision;or
 - iv. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

- b. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the above manufactured home provisions be elevated so that either:
- i. The lowest floor of the manufactured home is elevated one foot or more above the base flood elevation; or
 - ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

5. Recreation Vehicles. Recreational vehicles placed on sites are required to either:
- a. Be on the site for fewer than 180 consecutive days;
 - b. Be fully licensed and ready for highway use, on their wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
 - c. Meet the requirements of subsection (B)(4) of this section and the elevation and anchoring requirements for manufactured homes.

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

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
2. Construction or reconstruction of residential structures is prohibited within designated floodways, except for:
 - a. Repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and
 - b. Repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either:
 - i. Before the repair, or reconstruction, is started; or
 - ii. If the structure has been damaged, and is being restored, before the damage occurred.Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or to structures identified as historic places shall not be included in the 50 percent.

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

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

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

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

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

16.46.060 Severability.

If any section, clause, sentence, or phrase of this Chapter 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 Chapter.

Section 3: Duration of Interim Regulations. The interim regulations established in Section 2 above shall be in effect for a period of six (6) months from the date of this Ordinance is adopted (to and through December 8, 2020), and shall automatically expire on that date unless repealed, modified, or extended after subsequent public hearing and entry of appropriate findings of fact as provided in RCW 35A.63.220 and RCW 36.70A.390, or unless a final ordinance is adopted before that date amending the Lynnwood Municipal Code and rescinding this interim Ordinance.

Section 4: Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council shall hold a public hearing on this interim ordinance within sixty (60) days of its adoption. In order to comply, a public hearing shall be set no later than July 27th, 2020.

Section 5: 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 6: 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 8th day of June, 2020, and signed in authentication of its passage this 8th day of June, 2020.

APPROVED:

Nicola Smith, Mayor

ATTEST/AUTHENTICATED:

APPROVED AS TO FORM:

Karen Fitzthum, City Clerk

Rosemary Larson, City Attorney

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

CITY COUNCIL ITEM FYI-1

CITY OF LYNNWOOD Community Development

TITLE: South Lynnwood Neighborhood Plan Update

DEPARTMENT CONTACT: Ashley Winchell, AICP

SUMMARY:

The attached memo describes progress to date and next steps for the South Lynnwood Neighborhood Plan.

POLICY QUESTION(S) FOR COUNCIL CONSIDERATION:

There are no immediate policy questions. Future policy questions and actions may be needed as this plan progresses.

ACTION:

To review activity to date regarding the South Lynnwood Neighborhood Plan.

BACKGROUND:

Creating a sub-area plan for the South Lynnwood Neighborhood has previously been identified in the Lynnwood's Economic Development Plans adopted by Council in 2004 and 2015. During the update to the PARC Plan in 2016, the Parks, Recreation & Cultural Arts Department analyzed equity using composite maps. These maps identified South Lynnwood as a neighborhood experiencing significant inequities including income and language barriers. That discovery evolved into the phased South Lynnwood Project.

Phase I spanned from spring 2017 through fall 2018 and was supported by an interdisciplinary team focused on outreach and engagement in the neighborhood. The redevelopment of South Lynnwood Park is a major component of this phase.

The 2019-2020 budget includes funding for Phase II, the South Lynnwood Neighborhood Plan. A request for proposals was solicited in early 2019 and subsequently a consultant team was selected to prepare major deliverables for the project. The plan seeks to

- Establish a vision for the neighborhood;
- Identify projects and policies to stabilize housing for all families;
- Provide opportunities for various land uses; improve access to transit, future light rail and non-motorized transportation for all ages and abilities; and
- Serve as a model for other improvements throughout the City of Lynnwood.

PREVIOUS COUNCIL ACTIONS:

None.

FUNDING:

Funding for this project was provided in the 2019-2020 budget.

KEY FEATURES AND VISION ALIGNMENT:

- To be a welcoming city that builds a healthy and sustainable environment.
- To encourage a broad business base in sector, size and related employment, and promote high quality development.
- To be a cohesive community that respects all citizens.
- To invest in efficient, integrated, local and regional transportation systems.
- To be a city that is responsive to the wants and needs of our citizens.

ADMINISTRATION RECOMMENDATION:

No administrative recommendation is needed at this time.

DOCUMENT ATTACHMENTS

Description:	Type:
South Lynnwood FYI Memo	Memo
Existing Conditions	Backup Material

DATE: June 1, 2020

MEMORANDUM

TO: Mayor Nicola Smith
Lynnwood City Council

FROM: Ashley Winchell, AICP, Interim Planning Manager

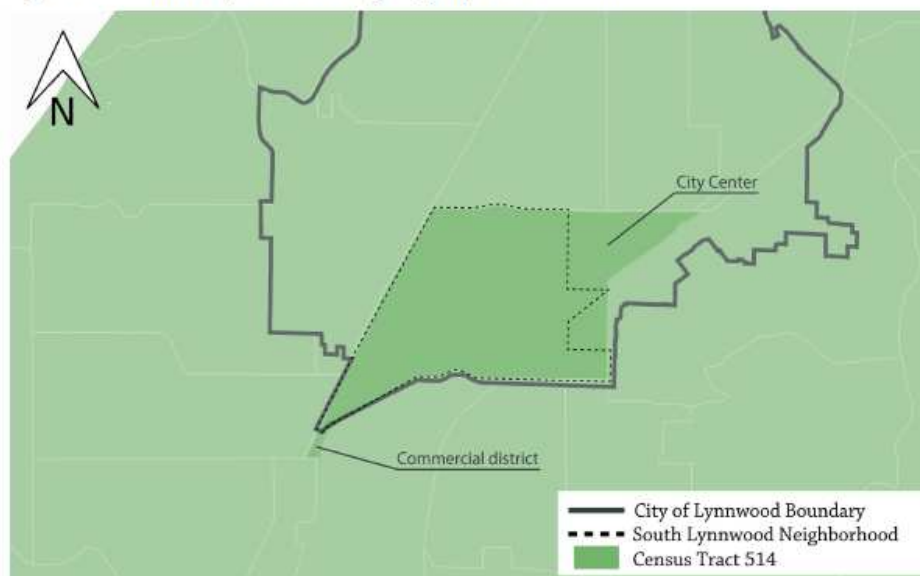
CC: David Kleitsch, Economic Development Director / Interim Community Development Director
Sarah Olson, Parks, Recreation & Cultural Arts Deputy Director
Christy Murray, Project/Tourism Manager

RE: **South Lynnwood Neighborhood Plan Updates**

This memo provides updates regarding the on-going South Lynnwood Neighborhood Plan; a sub-area planning project. Staff planned to provide updates to City Council in-person, however the current COVID emergency necessitates that this update be through an FYI memo. City staff is available to answer questions you may have.

For the purposes of this project, South Lynnwood is defined by Census Tract 514 (figure 1) that is bounded by Highway 99, 196th St SW, 50th Ave W and the City's southern border. The City Center is not a part of South Lynnwood because a sub-area plan for the City Center was previously adopted by the Council in 2005.

Figure 1. South Lynnwood's geographic boundaries



Creating a sub-area plan for the South Lynnwood Neighborhood has previously been identified in the Lynnwood's Economic Development Plans adopted by Council in 2004 and 2015. In 2017 a South Lynnwood Plan was identified as a city priority to address neighborhood conditions, development pressures and traffic from the coming light rail station, a complicated mix of land uses including important light-industrial businesses, and the needs of Lynnwood's most vulnerable populations. Creating the neighborhood plan was preceded by three years of community outreach and engagement with area residents and businesses to build trust and support for preparing the plan.

The purpose of the South Lynnwood Plan will be to identify policies and projects that address the following visionary themes for the neighborhood.

- Residents, businesses, and community partners work together to create a vibrant community which celebrates diversity.
- Households, families, community partners, and businesses are preserved and stable.
- The neighborhood is home to safe walking networks, parks, open spaces, and gathering places.
- Economic development progresses through employment opportunities and access to social services.

These themes were identified through public surveys, one-on-one interviews, and conversations among stakeholders.

Existing Conditions

The initial focus of the planning effort is to prepare an existing conditions report. This report identifies key findings in the following categories:

1. Demographic Analysis
2. Land Use and Urban Form
3. Housing
4. Economic Analysis
5. Workforce and Jobs
6. Environmental Survey

The project team is currently reviewing the information collected to identify gaps which may require additional attention to address the project's visionary themes.

This draft report is attached to this memo.

Public Engagement

A Public Engagement Plan (PEP) for the South Lynnwood Neighborhood Plan was drafted in Fall 2019. The PEP outlines how the public will be engaged to guide the creation of the plan. A pre-engagement phase of the project focused on speaking to

residents, business owners, service providers and other key stakeholders to determine the most effective way to engage the neighborhood. This input molded the PEP.

A joint meeting of the Planning Commission, Human Services Commission, and Diversity, Equity and Inclusion Commission was held on October 24, 2019 to share information about the project. The commission members shared valuable input regarding strengths, challenges and hopes for the neighborhood.

Through this process, a Co-Design Committee strategy was adopted for primary community engagement. This Co-Design methodology is an equitable and participatory process where solutions are developed by the Committee in partnership with the City. Through this process, recommendations are identified by the community and city staff to inform plan policies.

The Co-Design Committee has held two meetings to date. The committee is comprised of 22 members including residents, business owners, service providers, and city staff.

The first Co-Design Meeting was held on February 18, 2020 prior to any COVID related closures. That in-person meeting was attended by 17 committee members. There was robust conversation regarding hopes for the neighborhood and current challenges. The group also reviewed the draft existing conditions report.

The project team discussed whether the engagement phase should continue during the shutdown. The project team reached out to the Co-Design Committee members via phone, email and an e-survey to assess whether meeting during the shut-down would present challenges. A majority of the committee wished to move forward. The project team held the second Co-Design Committee on May 19, 2020 via Zoom. A total of 14 members participated, and the conversation focused on priorities and indicators of success.

A public open house was scheduled for May 19, 2020. This meeting was cancelled due to the shutdown. The project team still feels a public open house is needed to fully engage community members outside of the Co-Design Committee. The project team is assessing the current situation and strategies to determine the best steps for moving forward.

Project Scope

The consultant contract for this project established the scope of services. The scope is summarized as follows:

- **Task 1 – Public Engagement.** This task will be ongoing throughout the duration of the project. The Consultant team will develop and implement a successful public engagement plan to identify key strategies for the South Lynnwood Neighborhood Plan and present recommendations and steps for follow-through.

- Task 2 – Existing Conditions Survey. This Task includes several products to accurately characterize existing conditions and opportunities in the neighborhood.
- Task 3 – Debrief. This task represents contact between the consultant team and City to guide the project and debrief on progress.
- Task 4 – Recommendations. This task includes a variety of recommendations that the Consultant will provide to the City in the form of an Action List and Implementation Report.
- Task 5 – Project Management. This task represents project management services provided by the consultant, BHC.

Task 2 is complete; Tasks 1, 4 and 5 are currently underway.

Phase II Next Steps

The project team is determining the best time and method to convene a public open house. The original preference was to hold an in-person open house. The team is waiting to see when they may be able to meet in person and determining whether an online open house would be supported.

The team is also continuing to work with the Co-Design Committee to draft recommendations for the plan. The original project schedule anticipated that plan recommendations be completed this fall. The team is hoping to maintain this schedule considering the current COVID situation.

The team initially planned to bring this project to City Council for review and consideration in the 4th quarter of late 2020. It is very likely this schedule may be extended to accommodate the current Stay Home order.

CITY COUNCIL ITEM FYI-2

CITY OF LYNNWOOD Community Development

TITLE: Housing Action Plan Update

DEPARTMENT CONTACT: Kristen Holdsworth, ACIP

SUMMARY:

The City received a \$100,000 grant to develop a Housing Action Plan. The following work session is to update City Council on activities to date.

POLICY QUESTION(S) FOR COUNCIL CONSIDERATION:

There are no immediate policy questions right now. Future policy questions and actions may be needed as this plan progresses.

ACTION:

To review activity to date and provide input regarding the Housing Action Plan.

BACKGROUND:

In Fall 2019, the City of Lynnwood applied for and received a \$100,000 grant from the Department of Commerce (under ES2HB 1923) to develop a Housing Action Plan. The Housing Action Plan will comprehensively ensure that a variety of housing is available and affordable for people of all income levels in Lynnwood. The Plan will address current housing needs as well as those of the projected future population. Lynnwood's Housing Action Plan is:

- An actionable policy document that outlines how to meet all of Lynnwood's housing needs.
- Based on data and analysis vetted and grounded through an inclusive and robust public process.
- A comprehensive approach to leverage resources and implement cohesive, effective, and feasible housing strategies tailored to the Lynnwood community.
- Tailored to the housing needs of the Lynnwood community to ensure decent, safe, and affordable housing for all.

The project scope is summarized as follows:

- Deliverable 1: Project Purpose Statement. This task includes a project kick-off meeting with the consultants and the establishment of a common understanding of the project.
- Deliverable 2: Existing Conditions and Needs Analysis Report. This task includes a Housing Needs Assessment to identify future housing needs to serve all segments of the community. It will also include a review of the City's existing policies and programs to identify what is working and where gaps exist.
- Deliverable 3a: Public Engagement Plan. This task includes the creation of a Public Engagement Plan to identify robust opportunities for feedback from Lynnwood's diverse community members. The Public Engagement Plan will be utilized throughout the duration of the project.
- Deliverable 3b – Project Goals and Objectives. This task will combine feedback from the Existing Conditions and Needs Analysis Report (Deliverable 2) to identify the draft Housing Action Plan's goals and objectives.

- Deliverable 4 – Draft Housing Action Plan. This task will develop strategies to increase housing supply and preserve naturally occurring affordable housing. Strategies will increase affordability, stabilize or reduce housing costs, and minimize displacement.
- Deliverable 5 – Final Housing Action Plan. This task will include revisions to the draft Housing Action Plan.

Tasks 1 has been completed. Tasks 2, 3a, and 3b are currently underway.

Next Steps:

The consultant team has prepared a draft Public Engagement Plan and a draft outline of an Existing Conditions and Needs Report. Staff are reviewing these documents and will provide comments back to the consultant.

The draft Public Engagement Plan is a working document that identifies stakeholders, outreach techniques, and robust engagement options to increase community awareness and gather feedback throughout the planning process. The Public Engagement Plan anticipates five main strategies for public engagement: Outreach and Communications; Community Stakeholder Engagement; Boards and Commissions; City Council; and Coordination with Other Jurisdictions. As the project evolves, public outreach and engagement will be adjusted as needed to ensure the development of the best plan for Lynnwood. Given the changes we are experiencing in our community related to COVID-19 and the Stay Home order, the City is adapting its engagement approach to support social distancing.

The first draft of the Existing Conditions and Needs Report will be completed at the end of June 2020. The Community Development Department will provide Council with an update of the report's findings this summer.

Staff will schedule periodic briefings with Planning Commission and Council throughout the project to provide updates and seek input. The final Housing Action Plan will be presented to Council for adoption in early 2021.

PREVIOUS COUNCIL ACTIONS:

Council reviewed the Lynnwood Housing White Paper in July 2019 and formed a Council Housing Policy Committee.

FUNDING:

Funding for this project is provided through a Department of Commerce \$100,000 grant. The grant funding began in February 2020 and ends June 2021. As a condition of the grant, if the City does not adopt a Housing Action Plan by June 2021 it will forfeit \$30,000 dollars in reimbursement of consultant work.

KEY FEATURES AND VISION ALIGNMENT:

- To be a welcoming city that builds a healthy and sustainable environment.
- To be a cohesive community that respects all citizens.
- To be a city that is responsive to the wants and needs of our citizens.

ADMINISTRATION RECOMMENDATION:

No administrative recommendation is needed at this time.

DOCUMENT ATTACHMENTS

Description:	Type:
Housing Action Plan Update Memo	Memo

FYI-2-2

MEMORANDUM

DATE: June 1, 2020

TO: Mayor Nicola Smith
Lynnwood City Council

FROM: Kristen Holdsworth, AICP, Senior Planner

CC: David Kleitsch, Economic Development Director / Interim Community Development Director
Ashley Winchell, AICP, Interim Planning Manager

RE: **Lynnwood Housing Action Plan**

This memo provides updates regarding the on-going Lynnwood Housing Action Plan since our last update at the 2020 Council Retreat. Staff planned to provide these updates in person but are limited by the current Stay Home order.

Background

In July 2019 the Community Development Department presented the Lynnwood Housing White Paper to Council. The Lynnwood Housing White Paper was a preliminary assessment of the community's housing needs and existing programs and policies to address housing affordability.

The City Council affirmed housing as a priority and requested that City staff continue pursue efforts to address housing affordability.

In Fall 2019, the City of Lynnwood applied for and received a \$100,000 grant from the Department of Commerce (under ES2HB 1923) to develop a Housing Action Plan. The Housing Action Plan will comprehensively ensure that a variety of housing is available and affordable for people of all income levels in Lynnwood. The Plan will address current housing needs as well as those of the projected future population.

Lynnwood's Housing Action Plan is:

- An actionable policy document that outlines how to meet all of Lynnwood's housing needs.
- Based on data and analysis vetted and grounded through an inclusive and robust public process.
- A comprehensive approach to leverage resources and implement cohesive, effective, and feasible housing strategies tailored to the Lynnwood community.
- Tailored to the housing needs of the Lynnwood community to ensure decent, safe, and affordable housing for all.

In January 2020 the City released a Task Order to its on-call consultants to assist with the Housing Action Plan.

In February 2020 the City contracted with BERK (consulting firm) to assist in development of the City's Housing Action Plan.

The Department of Commerce grant funding began in February 2020 and ends June 2021. As a condition of the grant, if the City does not adopt a Housing Action Plan by June 2021 it will forfeit \$30,000 dollars in reimbursement of consultant work.

Project Scope

The Department of Commerce grant established a project scope. The scope is summarized as follows:

- Deliverable 1: Project Purpose Statement. This task includes a project kick-off meeting with the consultants and the establishment of a common understanding of the project. The task will create a Project Purpose Statement, which will be utilized during the initial phase of public outreach.
- Deliverable 2: Existing Conditions and Needs Analysis Report. This task includes a Housing Needs Assessment to identify future housing needs to serve all segments of the community. It will also include a review of the City's existing policies and programs to identify what is working and where gaps exist.
- Deliverable 3a: Public Engagement Plan. Meaningful public engagement is an important goal of this project. This task includes the creation of a Public Engagement Plan to identify robust opportunities for feedback from Lynnwood's diverse community members. The Public Engagement Plan will be utilized throughout the duration of the project.
- Deliverable 3b – Project Goals and Objectives. This task will combine feedback from the Existing Conditions and Needs Analysis Report (Deliverable 2) to identify the draft Housing Action Plan's goals and objectives.
- Deliverable 4 – Draft Housing Action Plan. This task will develop strategies to increase housing supply and preserve naturally occurring affordable housing. Strategies will increase affordability, stabilize or reduce housing costs, and minimize displacement.
- Deliverable 5 – Final Housing Action Plan. This task will include revisions to the draft Housing Action Plan and final formatting of the Housing Action Plan for Council consideration. An adopted Housing Action Plan must be submitted to the Department of Commerce by June 2021 in order to receive the final \$30,000 of the grant.

Tasks 1 has been completed. Tasks 2, 3a, and 3b are currently underway.

Housing Action Plan Next Steps

The consultant team has prepared a draft Public Engagement Plan and a draft outline of an Existing Conditions and Needs Report. Staff are reviewing these documents and will provide comments back to the consultant.

The draft Public Engagement Plan reflects insights gathered through interviews with community organizations and housing technical experts. The Public Engagement Plan is a working document that identifies stakeholders, outreach techniques, and robust engagement options to increase community awareness and gather feedback throughout the planning process. This will inform housing policies that more accurately and equitably reflect the diverse values and needs of the community.

As the project evolves, public outreach and engagement will be adjusted as needed to ensure the development of the best plan for Lynnwood. Given the changes we are experiencing in our community related to COVID-19 and the Stay Home order, the City is adapting its engagement approach to support social distancing.

The Public Engagement Plan anticipates five main strategies for public engagement:

1. Outreach and Communications. This task includes outreach and communication efforts designed to reach a broad set of community members. The primary goal is to inform community members of the City's efforts to review and update the City's housing policies through the Housing Action Plan. Examples include a project website, print and social media, branding, and public notices.
2. Community Stakeholder Engagement. This task includes stakeholder interviews, open houses (potentially hosted via an online platform), community events, focus group discussions, and a Stakeholder Advisory Group. The Housing Action Plan is required to be developed with participation and input from community members, community groups, local builders, local realtors, nonprofit housing advocates, and local religious groups (RCW 36.70A.600(2)(f)). The Stakeholder Advisory Group fulfills grant requirements and will review and provide recommendations to City staff, the consultant team, and the Housing Policy Committee. The kick-off meeting for the Stakeholder Advisory Group will be on June 3.
3. Boards and Commissions. The Community Development Department will coordinate with city-appointed boards and commissions to provide status updates and obtain feedback regarding the direction of the project. The Planning Commission will serve as the primary Commission since they will be reviewing the plan and providing a recommendation prior to its presentation to Council. Housing policy overlaps with many of the efforts from the Diversity Equity, and Inclusion Commission as well as the Human Services Commission. The Diversity Equity and Inclusion Commission and Human Services Commission will be invited to attend Planning Commission meetings to provide input throughout the project.
4. City Council. The City Council has prioritized housing as a policy topic for 2020. The Community Development Department presented a summary of housing

- efforts to date and an overview of the Housing Action Plan grant at the 2020 Council Retreat. The Community Development Department is also a member of the Council Housing Policy Committee. The Community Development Department is committed to working with the Council throughout the creation of the Housing Action Plan.
5. Coordination with Other Jurisdictions. The Community Development Department will continue coordination with neighboring jurisdictions to address housing affordability regionally and to share lessons learned.

Staff are reviewing the draft Public Engagement Plan. It will be utilized throughout the project to assist with development and feedback on deliverables.

The first draft of the Existing Conditions and Needs Report will be completed at the end of June 2020. The Community Development Department will provide Council with an update of the report's findings this summer.

Staff will schedule periodic briefings with Planning Commission and Council throughout the project to provide updates and seek input. The final Housing Action Plan will be presented to Council for adoption in early 2021.

CITY COUNCIL ITEM FYI-3

CITY OF LYNNWOOD Executive

TITLE: Ordinance 3358 - Executive Veto and Written Objections

DEPARTMENT CONTACT: Nicola Smith, Mayor

DOCUMENT ATTACHMENTS

Description:	Type:
Executive Veto Ord. 3358	Backup Material
Ordinance 3358	Backup Material

1
2 DATE: May 28, 2020

3
4 TO: Lynnwood City Council

5
6 FROM: Mayor Nicola Smith

7
8 **RE: VETO OF ORDINANCE 3358**

9
10 Honorable Councilmembers:

11
12 As Mayor of Lynnwood, I am exercising my authority under Chapter 35A.12 RCW to
13 veto Ordinance 3358 as adopted by City Council on May 26, 2020. This ordinance
14 relates to the City's tax on water, sewer, and stormwater utility rates. In accordance with
15 RCW 35A.12.130, I am returning this vetoed ordinance to the City Council with the
16 objections outlined below.

17
18 The City Council, City staff, and I all support the Lynnwood community during this
19 unprecedented COVID-19 pandemic. As discussed during the staff presentation provided
20 on Tuesday, May 26, 2020 (City Council Meeting Agenda Item 90.3-C), staff is
21 developing plans to use CARES Act funds to provide financial assistance to struggling
22 businesses and residents. I anticipate that this program will harness Federal funds to
23 accomplish what was identified initially as the basis for Ordinance 3358. As Mayor, I
24 want to offer community support through the best means possible. CARES Act funds
25 can accomplish this without severely impacting the City's finances.

26
27 Repeal of the City's 6% utility tax on the City's utilities was introduced as a way to offer
28 financial relief to the community during this pandemic. Lacking any strategy to offset
29 the serious impacts to the City's finances during 2020, the City Council chose to delay
30 the effective date of the Ordinance to January 1, 2021, which is outside of the COVID-19
31 emergency response timeframe. Ordinance 3358 permanently repeals the utility tax on
32 City utilities. It is inaccurate to portray this anti-tax measure as COVID-19 relief.

33
34 Ordinance 3358 was introduced to the City Council by email just one hour prior to the
35 May 18, 2020 meeting and subsequently forwarded to the May 26, 2020 meeting for
36 potential action. No written explanation or analysis was offered by the legislation's
37 sponsor (Meeting Agenda Item 90.3-D). This legislative process was inconsistent with
38 established procedures for Council meeting agenda items, specifically Council Rule
39 15.D. In the absence of supporting information from the legislation's sponsor, finance
40 director Sonja Springer prepared detailed analysis that was provided in writing and an
41 oral presentation.

42
43 The adoption of Ordinance 3358 is inconsistent with the State Attorney General's
44 Guidance on the COVID-19 Emergency Open Public Meeting Act. Because COVID-19
45 and Governor Inslee's Order precludes public attendance at meetings of the City Council,

1 as required by law, the Attorney General has instructed public agencies to limit its
2 business to matters related to COVID-19 or “routine and necessary”. As adopted,
3 Ordinance 3358 is neither, and violates the spirit of Washington’s Open Public Meetings
4 Act as the Council’s action did not include an open and transparent public process.
5

6 As explained by finance director Springer, Ordinance 3358 creates a new and severe
7 revenue shortfall for 2021 and all years thereafter--without consideration and
8 identification of the offsetting measures that will be needed. Prior to adoption of
9 Ordinance 3358, finance director Springer confirmed that revenue sources such as sales
10 tax are already underperforming. On April 13, 2020, I called for departments to curtail
11 all non-essential spending. Now, Ordinance 3358 exacerbates our financial hardship by
12 eliminating nearly \$1.5 million in annual revenue. It is improper to create a new revenue
13 shortfall without also offering clear direction on how to address its impacts. The
14 community deserves to witness and participate in Council discussions regarding how City
15 services will be impacted or how new sources of revenue will be created.
16

17 Ordinance 3358 eliminates an important source of revenue as of January 1, 2021, which
18 is also the first day of the City’s 2021-2022 budget biennium. Repeal of the utility tax is
19 a significant budget decision made outside of the adopted calendar and process for
20 developing our 2021-2022 Budget. Resolution 2020-02, adopted by the City Council on
21 January 21, 2020, sets forth the calendar for this budget process. The budget calendar
22 includes community outreach, two public hearings, and scheduled discussions during
23 several open public meetings. Chapter 35A.34 RCW calls for two or more public
24 hearings before budget decisions are made. Councilmembers stress having as much
25 public engagement and as many hearings as feasible during the development of the
26 budget; this ordinance sidesteps the process to make an important decision on revenues at
27 a time when virtual Council meetings offer only a modicum of public comment. This
28 falls short of our stated goal of being a responsive government with engaged citizens.
29

30 For each of these reasons, I veto Ordinance 3358.
31
32

33 Attachment: Ordinance 3358 (unsigned)
34

35 CC: Department directors
36 City attorney Rosemary Larson
37 Interim city clerk Karen Fitzthum
38 Records for the 2021-2022 Budget



ORDINANCE NO. 3358

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ELIMINATING THE CITY'S UTILITY TAX ON WATER DISTRIBUTION AND SEWERAGE UTILITIES; AMENDING SECTION 3.41.030 OF THE LYNNWOOD MUNICIPAL CODE; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

WHEREAS, Chapter 35.21 RCW and RCW 35A.82.020 authorize the City to impose and collect excise taxes from persons conducting business within the City, including utilities; and

WHEREAS, pursuant to this authority, in Chapter 3.41 of the Lynnwood Municipal Code, the City Council has established a utility tax on certain utilities, including water distribution utilities and sewerage utilities (which includes certain surface water facilities); and

WHEREAS, COVID-19 is a respiratory disease that can result in serious illness or death, is caused by the SARS-CoV-2 virus, which is a new strain of coronavirus that was not previously identified in humans, and can easily spread from person to person; and

WHEREASE, on January 31, 2020, the United States Department of Health and Human Services declared a public health emergency based on COVID-19; and

WHEREAS, on February 29, the Governor of the State of Washington declared that a state of emergency exists due to COVID-19, and Snohomish County and other counties state-wide have issued similar declarations of emergency; and

WHEREAS, on March 4, 2020, the Snohomish County Health District issued a declaration of emergency regarding the COVID-19 pandemic, and other local health districts have done the same; also on March 4, 2020, the Mayor of the City of Lynnwood issued an emergency proclamation due to the serious threat to public health and safety caused by COVID-19, and mayors of cities throughout the State have done the same; and

WHEREAS, on March 23, 2020, Governor Inslee issued Proclamation 20-25, "Stay Home – Stay Healthy," prohibiting all people in Washington State from leaving their homes or participating in gatherings of any kind regardless of the number of participants, and all non-essential businesses in the State were closed to the general public; and

1 WHEREAS, on May 4, 2020 Governor Inslee issued a Proclamation modifying the “Stay
2 Home – Stay Healthy” order, establishing a phased approach to re-opening the State, but the
3 phased re-opening is anticipated to require several months to be completely implemented; and
4

5 WHEREAS, the COVID-19 pandemic has severely impacted the local economy, resulting
6 in the temporary or permanent closure of a significant number of local businesses, and also in a
7 substantial number of employees working from home, the cancellation of public events,
8 significant reduction in demand at restaurants and other local businesses, increased employee
9 lay-offs, and reduction in work hours; and
10

11 WHEREAS, the social distancing and self-isolation measures needed to slow the spread
12 of COVID-19 have caused numerous residents and businesses in Lynnwood to suffer significant
13 financial loss, including loss of business income, lay-offs, and reduced hours and/or salary
14 reductions for a significant segment of the workforce; and
15

16 WHEREAS, it is recognized that while the City’s utility tax is imposed on and collected
17 from the entities engaged in the operation of the utility business, the amount of the tax is
18 passed on to utility rate payers; and
19

20 WHEREAS, as one means of addressing the financial hardships currently faced by
21 persons residing in and businesses located in Lynnwood, the City Council has determined that
22 the public interest is best served by eliminating the City’s utility tax on persons engaged in the
23 business of sewerage operations (which includes surface water drains and outfalls) and in the
24 business of water distribution operations; now therefore
25

26 THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, DO ORDAIN AS
27 FOLLOWS:
28

29 Section 1. Section 3.41.030 of the Lynnwood Municipal Code is hereby amended as follows:
30

31 **3.41.030 Businesses subject to tax.**

32 There is hereby levied upon all persons engaged in business activities taxable under this
33 chapter a tax in the amounts to be determined by the application of the respective rates
34 against gross income of such taxpayer. Taxpayers engaged in or carrying on the business
35 shall be charged with collection of the tax as a condition of doing business, and the tax
36 shall be levied thereafter upon their subscribers at the rate set forth below.
37

38 A. Upon every person engaged in or carrying on a telephone business, as defined in RCW
39 82.04.065, as said statute presently exists or is hereafter amended, a tax equal to six
40 percent of the total gross income, including revenues for intrastate toll, derived from
41 the operation of such business within the city. To the extent permitted by applicable
42 federal and Washington State law, any telecommunications services provided by a cable
43 operator (as defined in 47 U.S.C. Section 522(5)) or other persons over cable television
44 facilities owned or controlled by a cable operator shall be taxable hereunder.

1 B. Upon every person engaged in or carrying on the sale of cellular telephone service, a
2 tax equal to six percent of the total gross income derived from the operation of such
3 business within the city.

4 C. Upon every person engaged in the business of operating or providing pager service, a
5 tax equal to six percent of the total gross income derived from the operation of such
6 business within the city.

7 D. Upon every person engaged in or carrying on the business of cable television service,
8 a tax equal to six percent of the total gross income derived from the operation of such
9 business within the city.

10 E. Upon every person engaged in or carrying on the business of solid waste collection, a
11 tax equal to six percent of the total gross income derived from the operation of such
12 business within the city.

13 F. Upon every person engaged in or carrying on the business of electricity service, a tax
14 equal to six percent of the total gross income derived from the operation of such
15 business within the city.

16 G. Upon every person engaged in or carrying on the business of gas distribution, a tax
17 equal to six percent of the total gross income derived from the operation of such
18 business within the city.

19 ~~H. Commencing on January 1, 2015, upon every person engaged in or carrying on the~~
20 ~~business of sewerage operation (which includes surface water drains and outfalls), a tax~~
21 ~~equal to six percent of the total gross income derived from the operation of such~~
22 ~~business within the city.~~

23 ~~I. Commencing on January 1, 2015, upon every person engaged in or carrying on the~~
24 ~~business of water distribution operation, a tax equal to six percent of the total gross~~
25 ~~income derived from the operation of such business within the city.~~

26
27
28 Section 2. Pursuant to LMC 3.41.150, the change in rate of tax on persons engaging in or
29 carrying on the business of sewerage operations or the business of water distribution
30 operations, as stated in Section 1 of this Ordinance, shall not take effect until 60 days following
31 the enactment of this Ordinance.

32
33 Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance should be
34 held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or
35 unconstitutionality shall not affect the validity or constitutionality of any other section,
36 sentence, clause or phrase of this Ordinance.

37
38 Section 4. Effective Date. This Ordinance or a summary thereof consisting of the title shall be
39 published in the official newspaper of the City and shall take effect January 1, 2021.

40
41
42 PASSED BY THE CITY COUNCIL, the 26th day of May, 2020.
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APPROVED:

Nicola Smith, Mayor

ATTEST/AUTHENTICATED:

Karen Fitzthum, City Clerk

APPROVED AS TO FORM:

Rosemary Larson, City Attorney

FILED WITH ADMINISTRATIVE SERVICES:

PASSED BY THE CITY COUNCIL:

PUBLISHED:

EFFECTIVE DATE:

ORDINANCE NUMBER:

