



LYNNWOOD
WASHINGTON

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, do ordains follows: AMEND LMC TITLE 1.35 APPLICATION PROCESSING AND REVIEW AND AMEND LMC TITLE 3.104 FEES AND CHARGES TO IMPLEMENT PROVISIONS OF SUBSTITUTE SENATE BILL 5290 PROJECT PERMITS - LOCAL PROJECT REVIEW PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR SUMMARY PUBLICATION

WHEREAS, the Washington State Legislature adopted Engrossed Substitute House Bill 1724 for the Integration of Growth Management Planning and Environmental Review on May 15, 1995; and

WHEREAS, the City of Lynnwood adopted Ordinance 2071 on March 25, 1996, to implement the requirements of ESHB 1724; and

WHEREAS, the Washington State Legislature adopted Second Substitute Senate Bill 5290 for Project Permits – Local Project Review on May 10, 2023; and

WHEREAS, the City of Lynnwood contracted with FCS Group to prepare a DBS Fee Cost of Service Study in March 2023; and

WHEREAS, the City of Lynnwood adopted Ordinance XXXXX on XXXXXX, 2024 to reflect reasonable fees for permitting; and [Pending Ordinance Adoption of New Fee Schedule]

WHEREAS, the City of Lynnwood prioritizes the efficient and cost effective review of development permits;

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

Section 1: Purpose. The purpose of this ordinance is to provide prompt, coordinated review and ensure accountability to applicants and the public including the establishment of timeframes of permit review for project permits, exemptions of project permit review, eliminating fees imposed for the cost of processing administrative appeals, providing for on-call permitting assistances, and supporting optional use of preapplication meetings.

44 Section 2: Permit Times. The following permit times as established by amending LMC
45 1.35.001 to 1.35.190 to read as follows:

46

47 **1.35.001 Administration of development regulations.**

48 LMC 1.35.001 through 1.35.080 contain requirements and procedures for all project permits
49 and project permit applications.

50

51 **1.35.004 Environmental review and limitation on hearings and appeals.**

52 Land use permit review procedures shall:

53 A. Be combined with environmental review processes, both substantive and procedural; and

54 B. Provide for no more than one open record hearing and one closed record appeal.

55

56 **1.35.005 Project permit – Definition.**

57 “Project permit” or “project permit application” means any land use or environmental permit
58 or license required from the city for a project action, including but not limited to ~~building~~
59 ~~permits~~, subdivisions, binding site plans, planned unit developments, conditional uses,
60 shoreline substantial development permits, site plan review, permits or approvals required by
61 critical area ordinances, site-specific rezones ~~authorized by a comprehensive plan or subarea~~
62 ~~plan~~, which do not require a comprehensive plan amendment, but excluding the adoption or
63 amendment of a comprehensive plan, subarea plan, or development regulations except as
64 otherwise specifically included in this section.

65 Project Permits include the following permit types:

- 66 a) Accessory Dwelling Unit Application
- 67 b) Binding Site Plan
- 68 c) Boundary Line Adjustment
- 69 d) Conditional Use Permit (CUP)
- 70 e) Critical Areas Permit (CAP)
- 71 f) Parking Administrative Adjustment Review
- 72 g) Planned Unit Development
- 73 h) Project Design Review
- 74 i) Shoreline Permit
- 75 j) Subdivision – Final Short
- 76 k) Subdivision – Full
- 77 l) Subdivision – Short
- 78 m) Variance

79

80 **1.35.010 Permit applications.**

81 All applications for project permits shall be submitted on forms prescribed by the applicable
82 department director. All applications shall include all materials required by the applicable
83 development regulations and all information needed to evaluate the consistency of the
84 application with the applicable standards and requirements of the Lynnwood Municipal Code
85 and shall include all applicable fees.

86

87 **1.35.015 Complete application.**

88 A. *Determination.* Upon receiving an application that is to be processed under this chapter, the
89 applicable department director shall first determine if the application is complete. An
90 application is complete when all items ~~it meets the procedural submission requirements~~ listed
91 on available application checklists are submitted, ~~in the applicable chapter or title~~ and is
92 sufficient for continued processing, even though additional information may be required or
93 project modifications may be undertaken subsequently, and application fees are paid. No
94 application shall be considered complete if any required information is missing. Upon receipt of
95 a written request from the applicant to waive any submittal requirement, the applicable
96 department director may waive any submittal requirement if he/she finds that the information
97 is not needed in order to review a particular project application. The determination of
98 completeness shall not preclude the applicable department director from requesting additional
99 information or studies either at the time of the determination of a complete application (see
100 below) or subsequently if new information is required or substantial changes in the proposed
101 action occur.

102
103 B. *Notice to the Applicant.* If the application is found to be complete, the applicable
104 department director shall send the applicant a “determination of a complete application” and
105 shall continue with review of the application. If the application is found not to be complete, the
106 director shall send the applicant a “determination of incomplete application and request for
107 additional information” that shall indicate the additional information that is required.

108
109 C. *Time Limit.* The applicable department director shall complete its review of an application
110 for completeness and send the appropriate notice under subsection (B) of this section within 28
111 calendar days of submission of the application, the application is deemed complete and
112 processing of the application shall proceed.

113
114 D. *Submittal of Additional Information.* Within 14 calendar days of receipt of additional
115 information in response to a request for additional information, the applicable department
116 director shall notify the applicant whether the application is complete (by sending a
117 determination of incomplete application and request for additional information). Submission of
118 information in response to a second or subsequent request of additional information shall
119 initiate a new 14-day period for determining completeness. If no notice is sent to the applicant
120 within 14 calendar days of submission of the additional information, the application is deemed
121 complete.

122
123 **1.35.018 Close-out of abandoned application.**

124 If the applicant does not respond in writing to a determination of incomplete application or a
125 request for additional information within 90 calendar days of the notice mailing of the
126 determination or request, or otherwise fails to respond in writing to a notice, written
127 determination or other written communication from the city within 90 calendar days of
128 informing via email-mailing of the communication, the applicable department director shall
129 determine that the application appears to be abandoned. Upon making this determination, the
130 applicable department director shall inform via email-mail the applicant a notice that the

131 application will be considered abandoned and shall be closed-out and returned to the applicant
132 if he/she does not submit the requested information within 30 calendar days.

133

134 **1.35.020 Notice of application.**

135 Within 14 calendar days of issuing a notice of completeness for an application, under
136 LMC 1.35.015, the applicable department shall provide a notice of application to the public,
137 other agencies, and other city departments. If an open record pre-decision hearing is required
138 for the requested project permits, this notice shall be provided at least 15 calendar days prior
139 to that hearing. If, prior to issuing this notice, the city has determined that a determination of
140 significance will be issued for the application, the notice of application shall be combined with
141 the determination of significance and scoping notice.

142

143 A. *Content.* The notice of application shall include, at a minimum, the following information:

144

1. The date of the application;

145

2. The date of the notice of completeness;

146

3. The date of issuance of the notice of application;

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4. A description of the proposed project;

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5. A list of the project permits included in the application;

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6. A list of any studies required for reviewing the project;

150

7. A list of other permits that may be required for the project, to the extent known to
the city;

151

152

8. A list of existing environmental documents that evaluate the proposed project and
the location where the application and any studies or relevant documents may be
reviewed;

153

154

9. The dates of the public comment period, which shall extend 14 calendar days
following the date of issuance of the notice of application;

155

156

10. A statement of the right of any person to comment on the application, receive
notice of and participate in any hearings, request a copy of the decision once made, and
any appeal rights;

157

158

11. The date, time, place, and type of hearing, if applicable and if scheduled at the date
of the notice of application;

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12. A statement of the preliminary determination, if one has been made at the time of
notice, of those development regulations that will be used for project mitigation and of
consistency;

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13. Date, place and time of the informal meeting, if any.

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B. *Distribution.* The city shall use reasonable methods to give this notice to the public. At a
minimum, this notice shall be distributed as follows:

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169

1. Posting the property (for site-specific proposals);

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2. Publishing the notice (including at least the project location, description, type of
permit(s) required, comment period dates, and location where the complete application
may be reviewed), in the official newspaper of the city (see Chapter 1.08 LMC);

171

172

3. Posting the notice at each official posting place of the city (see Chapter 1.12 LMC).

173

174

175 C. *Public Comment.* During the public comment period for the notice of application, the public
176 may comment in writing on the application, including the possible impact of the project on the
177 environment or the conformance (or lack of conformance) of the project with the city's
178 comprehensive plan, Municipal Code, and other adopted city policies. Such comments shall
179 become part of the record of the application. This opportunity to comment on an application is
180 in addition to any comment period provided prior to decision on an application or an appeal of
181 a decision on an application. Neither participation in this opportunity to comment, nor
182 nonparticipation in it, shall preclude any person from participating in any other opportunity to
183 comment on an application, including any public hearing or informal public meeting.

184
185 **1.35.025 Time limit.**

186 Except as otherwise provided in subsection (A) of this section, the city shall make a decision on
187 a permit application and issue the notice of decision on a project permit application as follows:

188
189 A. Project Permits which do not require public notice under RCW 36.70B.110, a final decision
190 must be issued within 65 days of determination of completeness;

191
192 B. Project Permits which require public notice under RCW 36.70B.110, a final decision must be
193 issued within 100 days of determination of completeness;

194
195 C. Project Permits which require public hearing under RCW 36.70B.110, a final decision must be
196 issued within 170 days of determination of completeness;

197 ~~within 120 calendar days after the city notifies the applicant that the application is~~
198 ~~complete, as provided in LMC 1.35.015.~~

199 **AD. Exception.** In determining the number of days that have elapsed after the city has notified
200 the applicant that the application is complete, the following periods shall be excluded:

- 201 1. Any period during which the applicant has been requested by the city to correct
202 plans, perform required studies, or provide additional required information, pursuant to
203 LMC 1.35.033. The period shall be calculated from the date the city notifies the
204 applicant of the need for additional information until the earlier of the date the city
205 determines whether the additional information satisfies the request for information or
206 14 days after the date the information has been provided to the city. If the city
207 determines that the information submitted by the applicant is insufficient, it shall notify
208 the applicant of the deficiencies, and this procedure shall apply as if a new request for
209 studies had been made;
- 210 2. Any period during which an environmental impact statement is being prepared
211 following a determination of significance pursuant to Chapter 43.21C RCW;
- 212 3. Any period for administrative appeals of project permits, if an open record appeal
213 hearing or a closed record appeal, or both, are allowed. The city shall consider and
214 decide such appeals within 90 calendar days for an open record appeal hearing and
215 within 60 calendar days for a closed record appeal. The parties to an appeal may agree
216 to extend these time periods; and
- 217 4. Any extension of time mutually agreed upon by the applicant and the city.

218

219 **B. Exemptions.** The time limits established by subsection (A) of this section do not apply if a
220 project permit application:

- 221 1. Requires an amendment to the comprehensive plan or a development regulation;
- 222 2. Requires the siting of an essential public facility as provided in RCW 36.70A.200; or
- 223 3. Is substantially revised by the applicant, in which case the time period shall start
- 224 from the date at which the revised project application is determined to be complete
- 225 under LMC 1.35.015
- 226 4. The time periods shall start over if an applicant proposes a change in use that adds or
- 227 removes commercial or residential elements from the original application that would
- 228 make the application fail to meet the determination of procedural completeness for the
- 229 new use, as required by the local government under RCW 36.70B.070.

230
231 **C. Noncompliance with Time Limit.** If the city is unable to issue its final decision within the
232 time limits provided for in this section, the applicable department director shall provide written
233 notice of this fact to the project applicant. The notice shall include a statement of reasons why
234 the time limits have not been met and an estimated date for issuance of the notice of final
235 decision.

236
237 **1.35.030 Contact person for application processing.**

238 The city shall require the applicant for a project permit to designate a single person or entity to
239 receive determinations and notices required by this chapter.

240
241 **1.35.033 Request for additional information during application processing.**

242 During processing of an application, city staff may request the applicant to correct plans,
243 perform required studies, or provide additional required information; provided, that the
244 correction, study or additional information is needed to evaluate the application under the
245 comprehensive plan, Municipal Code or other adopted city policy. Pursuant to
246 LMC 1.35.025(A)(1), the time period during which such a request has been made but has not
247 been fulfilled shall not be included in the review period. ~~the 120 days allowed for permit~~
248 ~~processing by LMC 1.35.025.~~

249
250 **1.35.035 Combined public hearing.**

251 If requested by an applicant, the applicable department director shall arrange for any public
252 hearing required by this chapter to be held as a joint public hearing with any local, regional,
253 state, federal, or other public agency; provided, that the other agency consents to the holding
254 of joint public hearing, that the hearing shall be held within the corporate limits of the city of
255 Lynnwood and that the joint public hearing can be held within the required time-frame for
256 processing the application.

257
258 **1.35.040 Notice of decision.**

259 Within three working days of the city's decision on an application, the applicable department
260 director shall distribute a notice of decision on the application indicating the content of the final
261 decision of the city.

262 A. *Contents of the Notice of Decision.* The notice of decision shall contain all of the following:

- 263 1. A statement indicating that the application is approved, approved with modifications
264 or conditions, or is denied;
265 2. A statement of any conditions included as part of an approval or approval with
266 modifications;
267 3. The location where the complete decision (including the findings of fact and
268 conclusions of law) may be reviewed;
269 4. A statement that any person who participated in the decision may appeal the
270 decision, and the time limits and process for making an appeal;
271 5. A statement of any threshold determination made under Chapter 43.21C RCW.
272

273 B. *Distribution of the Notice of Decision.* The applicable department director shall distribute the
274 notice of decision by:

- 275 1. Regular mail to any person who participated in decision;
276 2. Regular mail to any person who has requested such notice and who has paid a fee as
277 shown in Chapter 3.104 LMC per year to the finance director;
278 3. Posting a copy of the notice at the site (for site-specific proposals);
279 4. Publishing the notice once in a newspaper of local circulation;
280 5. Regular mail to the applicant; and
281 6. Delivery to the finance director for distribution to the city council.
282

283 **1.35.060 Exemptions from project permit application processing.**

284 A. *Type A Exemptions.* Applications for the following types of projects are exempt from the
285 provisions of LMC 1.35.001 through 1.35.080, inclusive:

- 286 1. Landmark designations;
287 2. Street vacations;
288 3. Other approvals relating to the use of public areas or facilities.
289 4. Interior Alterations provided that the interior alterations do not result in the
290 following:
291 (a) Additional sleeping quarters or bedrooms;
292 (b) Nonconformity with federal emergency management agency substantial
293 improvement thresholds; or
294 (c) Increase the total square footage or valuation of the structure thereby
295 requiring upgraded fire access or fire suppression systems.
296

297 B. *Type B Exemptions.* Lot line or boundary adjustments and building and other construction
298 permits, or similar administrative approvals, categorically exempt from environmental review,
299 or for which environmental review has been completed in connection with other project
300 permits are exempt from the following procedures:

- 301 1. Notice of application, LMC 1.35.020;
302 2. Determination of completeness, LMC 1.35.015(A);
303 3. Notice of decision, LMC 1.35.040;
304 4. Except as provided in RCW 36.70B.140, optional consolidated project permit review
305 processing;
306 5. Joint public hearings;

- 307 6. Single report stating all the decisions and recommendations made as of the date of
308 the report that do not require an open record hearing;
309 7. Completion of project review within any applicable time period (including the 120-
310 day permit processing time limit).

311
312 **1.35.070 Determining consistency with the development regulations and comprehensive**
313 **plan.**

314 The comprehensive plan and adopted zoning and other development regulations shall serve as
315 the basis for review of land use and development applications. In particular, determinations of
316 the type of land use, residential density and capacity of and funding for public facilities shall
317 serve as the foundation for further project review. During review of an application for use or
318 development of land, the city shall determine whether the proposed use or development
319 conforms with the city's development regulations and comprehensive plan. This determination
320 shall generally follow four steps, as follows:

321
322 A. *Identify Criteria for Determining Consistency – Development Regulations.* Review city
323 development regulations to determine if they define or state the following for the proposed
324 use or development of land:

- 325 1. Type of land use permitted at the site, including uses that may be allowed under
326 certain circumstances if decision criteria are met;
327 2. Density of residential development (if applicable); and
328 3. Availability and adequacy of public facilities (for those facilities identified in the
329 comprehensive plan, if the plan or the city's development regulations provide for
330 funding of these facilities).

331
332 B. *Identify Criteria for Determining Consistency – Comprehensive Plan.* Refer to the
333 comprehensive plan to define or state any of the three items of criteria in subsection (A) of this
334 section that are not defined or stated in the development regulations.

335
336 C. *Evaluate Conformance.* Evaluate whether the application conforms with the definitions or
337 statements in the development regulations (identified in subsection (A) of this section) or in the
338 comprehensive plan (identified in subsection (B) of this section).

339
340 D. *Continue Review.* Evaluate the character of the proposed development or use and its
341 compliance with other standards and requirements in this title, the Municipal Code, and other
342 adopted policies, standards and requirements.

343
344 **1.35.075 Limit on scope of review.**

345 During application review, the city shall not reexamine alternatives to or hear appeals on the
346 type of land use permitted at the site, the density of residential development, or the availability
347 or adequacy of public facilities (for those facilities identified in the comprehensive plan), as
348 determined under LMC 1.35.070(A) and (B). The city may ask more specific or related questions
349 with respect to any of these issues.

350

351 **1.35.080 Optional consolidated review process.**

352 A. Applications involving two or more permits will be consolidated, if the applicant requests
353 consolidation, and if the permit applications are filed at the same time. Consolidation may
354 otherwise be allowed by the city on the applicant’s request. Applications involving consolidated
355 permit review will be processed so that city review occurs in an orderly manner.

356
357 B. When separate applications involving two or more processes are consolidated for review,
358 the process involving the highest authority is utilized. The city council is the highest authority,
359 followed by the hearing examiner of planning commission (as applicable), and then the
360 department director. By way of example, if an application involves a building permit,
361 conditional use permit, and rezone, then the process for rezone shall apply to all permits, since
362 the city council (the highest authority) makes the final decision on rezones.

363
364 C. Where separate applications are consolidated for review, the authority to issue permits
365 remains with the applicable department director, but an administrative appeal of a department
366 director’s determination would be heard by the highest authority involved in any process
367 consolidated for review. If any administrative decision is appealed, the administrative decision
368 may be withdrawn and re-issued at a later date, in order that any appeal is allowed to be
369 consolidated with appeals, if any, from other decisions. The appeal authority may retain experts
370 as necessary if the matter involves technical matters. The highest authority may combine
371 appeals with hearings.

372
373 **1.35.085 Transcript.**

374 Any person requesting a transcript of a public hearing, informal meeting or other event for
375 which the city has made an electronic recording shall pay the full cost of producing that
376 transcript. Such payment shall be made prior to production of the transcript, and the amount of
377 this payment shall be based on the estimated cost of producing the transcript. Any cost not
378 paid in advance shall be paid when the transcript is delivered; and payment in excess of the
379 actual final cost shall be refunded. Alternatively, any person may request a copy of the official
380 tape, paying the cost to duplicate the tape, and provide their own transcription, verifying that
381 the same is a correct transcription of the duplicate tape.

382
383 **1.35.090 Time computation.**

384 In computing any period of time prescribed or allowed by this chapter or any other law or
385 regulation of the city of Lynnwood will use calendar days starting the day of the act, event, or
386 default from which the designated period of time begins. ~~to run shall not be included.~~ In the
387 event an application is submitted electronically during non-work hours, the following business
388 day will be the starting day.

389
390 ~~The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a~~
391 ~~legal holiday, in which event the period runs until the end of the next day which is neither a~~
392 ~~Saturday, a Sunday nor a legal holiday. For the purpose of this section, legal holidays are those~~
393 ~~other than any “floating holiday” prescribed in RCW 1.16.050 and LMC 2.54.020 as they now~~
394 ~~read or as amended. When the period of time prescribed or allowed is less than seven days,~~

395 ~~intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.~~
 396 ~~Whenever a person has the right or is required to do some act or take some proceedings within~~
 397 ~~a prescribed period after service of a notice or other paper upon him and the notice or paper is~~
 398 ~~served upon him by mail, three days shall be added to the prescribed period.~~

400 Section 3: Reasonable Fees. The City adopts further project review and code provisions
 401 including reasonable fees which do not include a fee for the cost of processing administrative
 402 appeals. Table 3.104.010 LMC Title 1 Fees and Charges is amended as follows:
 403

Type of Fee		
LMC TITLE 1 – APPLICATION PROCESSING AND REVIEW		
Appeals	Nonapplicant	500.00
	Business license, home occupation	500.00
	Business license, all other	1,000.00
	Appeal to hearing examiner – Applicant	5,000.00 <u>1,000.00</u>
Public Notices	Mailing notice to each person who has requested such notice in writing for the calendar year	285.00

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 406
 407 Section 4: On-Call Permitting. Development & Business Services must maintain
 408 budgeting for on-call permitting assistance for when permit volumes or staffing levels change
 409 rapidly.
 410

411 Section 5: Preapplication Meetings. Development & Business Services will continue to
 412 encourage but not require preapplication meetings as a condition of permit application
 413 submittal.
 414

415 Section 6. Severability. If any section, sentence, clause or phrase of this ordinance should
 416 be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or
 417 unconstitutionality shall not affect the validity or constitutionality of any other section, sentence,
 418 clause or phrase or word of this ordinance.
 419

420 Section 7. Effective Date: This ordinance or an approved summary thereof consisting of its
 421 title shall be published in the City’s official newspaper of record and shall take effect and
 422 be in full force five days following its publication.
 423

424 PASSED BY THE CITY COUNCIL THIS XX day of XXXXXXX, 20XX.

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 428
 429

APPROVED:

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433
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435
436
437

ATTEST/AUTHENTICATED:

Luke Lonie, City Clerk

Christine Frizzell, Mayor

APPROVED AS TO FORM:

Lisa Marshall, City Attorney

DRAFT