

ORIGINAL
Do not remove from
the City Clerk's Office

CITY OF LYNNWOOD
ORDINANCE NO. 1909

City of Lynnwood
DEC 18 2000

AN ORDINANCE ADDING CHAPTER 1.35 TO THE LYNNWOOD MUNICIPAL CODE, PROVIDING FOR REVIEW PROCESSES AND PROCEDURES ("PROCESS III") REGARDING APPLICATIONS FOR ADMINISTRATIVE PERMITS. **SCANNED**

THE CITY COUNCIL OF THE CITY OF LYNNWOOD DO ORDAIN AS FOLLOWS:

Section 1. LMC 1.35.300 Administrative Review Process. A new section is added to Ch. 1.35 LMC, to read as follows:

1.35.300 PROCESS III: ADMINISTRATIVE PERMITS REVIEW PROCESS

Sections 1.35.300 through 1.35.399 LMC shall apply to applications for City administrative permits or whenever a provision of the Lynnwood Municipal Code requires a decision using "PROCESS III".

Section 2. LMC 1.35.310 Added: Scope. A new section is added to Ch. 1.35 LMC, to read as follows:

1.35.310 SCOPE

Sections 1.35.300 et. seq. set forth the procedures that the City will use in implementing "Process III". This process includes an opportunity for public comment, followed by a decision by the applicable department director and rights of appeal.

Section 3. LMC 1.35.320 Added: SEPA. A new section is added to Ch. 1.35 LMC, to read as follows:

1.35.320 STATE ENVIRONMENTAL POLICY ACT

The State Environmental Policy Act ("SEPA") may apply to an action taken under Section 1.35.300 et. seq. See Title 17 LMC for additional notice provisions, decision authority and other review requirements.

Section 4. LMC 1.35.325 Added: Authority of Department Directors. A new section is added to Ch. 1.35 LMC, to read as follows:

1.35.325 AUTHORITY OF DEPARTMENT DIRECTORS

In accordance with the provisions of Process III, the applicable department director shall approve, approve with modifications and/or conditions, or deny each application under Process III.

Section 5. LMC 1.35.330 Added: Public Notice of Impending Decision. A new section is added to Ch. 1.35 LMC, to read as follows:

1.35.330 PUBLIC NOTICE OF IMPENDING DECISION

A. Content of Notice.

The applicable department director shall prepare notice of an impending decision on an application for an administrative permit, containing all of the following:

1. The name of the applicant and, if applicable, the project name;
2. The street address of the subject property or a description in non-legal terms sufficient to identify its location;
3. The citation of applicable provisions of the Lynnwood Municipal Code;
4. A brief description of the action, permit or approval requested in the application;
5. The date on which the public comment period ends;
6. A statement of the right of any person to participate in the decision as provided for in LMC 1.35.333;
7. A statement that only those persons who participate in the decision as provided in LMC 1.35.333 may appeal the decision of the applicable department director.

B. Time of Notice.

The applicable department director shall provide such notice at least fourteen (14) days prior to the decision.

C. The applicable department director shall provide such notice by:

1. Publishing it in the official newspaper of the City (See LMC 1.08); and
2. Posting it at each official posting place of the City (see LMC 1.12); and

3. Mailing the notice to each owner of real property within 300 feet of any boundary of the subject property and of any property contiguous thereto which is in the applicant's ownership. Notice mailed to the addressee found on the City of Lynnwood utility billing records, or if there is no such record for any given lot, then notice mailed to the last owner of record in the office of the County Treasurer shall be deemed proper notice; and
4. Mailing the notice addressed to "occupant/tenant" of each address in a multiple residential building or mobile home park within the applicant's property or contiguous to the subject property and to each address in a multiple residential building or mobile home park within 300 feet of any boundary of the subject property and of any property contiguous thereto which is in the applicant's ownership. "Occupant/tenant" must be addressed by unit in a multiple unit building or mobile home park but need not be identified by name; and
5. Mailing the notice to each person who has requested such notice in writing for the calendar year and who has paid the \$250.00 fee.

D. Notice by mail requirements shall be satisfied by substantial compliance with this section.

Section 6. LMC 1.35.333 Added: Public Comment Process. A new section is added to Ch. 1.35 LMC, to read as follows:

1.35.333 PUBLIC COMMENT PROCESS BEFORE DIRECTOR'S DECISION

Any person may participate in the department director's decision by submitting written comments on the application to him prior to the date on which the decision is to be made.

Section 7. LMC 1.35.335 Added: Department Director's Decision. A new section is added to Ch. 1.35 LMC, to read as follows:

1.35.335 DEPARTMENT DIRECTOR'S DECISION

On or after the date specified in the notice of upcoming decision as the close of the public comment period, the applicable department director shall either approve, approve with modifications and/or conditions, or deny the application.

Section 8. LMC 1.35.336 Added: Approval Criteria. A new section is added to Ch. 1.35 LMC, to read as follows:

1.35.336 APPROVAL CRITERIA

The applicable department director may approve the application, or approve it with modifications and/or conditions only if the applicant has carried the burden of proof by producing evidence sufficient to support the conclusion that the application merits approval or approval with modifications and/or conditions and demonstrating that the proposal complies with the applicable decision criteria of the City Code.

Section 9. LMC 1.35.337 Added: Limitations on Modifications. A new section is added to Ch. 1.35 LMC, to read as follows:

1.35.337 LIMITATIONS ON MODIFICATION

If the applicable department director modifies or imposes conditions upon the application which results in a proposal not reasonably foreseeable from the description of the proposal contained in the public notice provided pursuant to LMC 1.35.330, the applicable department director shall provide a new notice of an impending decision and obtain public comment prior to making a decision.

Section 10. LMC 1.35.340 Added: Director's Decision. A new section is added to Ch. 1.35 LMC, to read as follows:

1.35.340 DECISION OF THE DIRECTOR

A. Contents of Decision.

The applicable department director shall issue a written decision on the application which contains all of the following:

1. A statement indicating that the application is approved, approved with modifications and/or conditions, or is denied;
2. A statement of any conditions included as part of an approval or approval with modifications;
3. A statement of the facts upon which the decision, including any modifications or conditions, was based and the conclusions derived from those facts;
4. A statement that any person who participated in the decision pursuant to LMC 1.35.333 may appeal the decision as provided in LMC 1.35.350.
5. A statement detailing the information set forth in LMC 1.35.360(E).

B. Distribution of Decision.

The applicable department director shall distribute the written decision of the Director, bearing the date of distribution, to every member of the City Council and to each person who participated in the decision pursuant to LMC 1.35.333.

Section 11. LMC 1.35.345 Added: Effect of Director's Decision. a new section is added to Ch. 1.35 LMC, to read as follows:

1.35.345 EFFECT OF DIRECTOR'S DECISION

Subject to LMC 1.35.350, the decision on the application by the applicable department director is the final decision of the City.

Section 12. LMC 1.35.347 Added: Commencement of Activity. A new section is added to Ch. 1.35 LMC, to read as follows:

1.35.347 COMMENCEMENT OF ACTIVITY

Subject to LMC 1.35.350, the applicant may commence activity or obtain other required approvals authorized by the approval or approval with modifications and/or conditions, fifteen (15) days following the date on which the final decision of the Director is distributed. The City may waive this requirement if the applicant and all parties of record agree in writing to waive the appeal period. If the decision of the applicable department director is appealed pursuant to LMC 1.35.350, no activity may begin and no other City approvals may be granted.

Section 13. LMC 1.35.350 Added: Appeal of Director's Decision. A new section is added to Ch. 1.35 LMC, to read as follows:

1.35.350 APPEAL OF DEPARTMENT DIRECTOR'S DECISION

The applicant or any person who participated in the decision process pursuant to LMC 1.35.333 may appeal the decision of the applicable department director by filing an appeal with the City Clerk within fourteen (14) days of the department director's decision.

Section 14. LMC 1.35.360 Added: Process on Appeal from Department Director's Decision. A new section is added to Ch. 1.35 LMC, to read as follows:

1.35.360 PROCESS ON APPEAL FROM DEPARTMENT DIRECTOR'S DECISION

An appeal from a Department Director's decision on an application for an administrative permit shall be processed as follows:

A. The appeal shall include a statement of why the appellant believes the applicable department director's decision is in error. The fee for appeals shall be \$35.00. The timely filing of an appeal shall stay the effective date of the applicable department director's decision until such time as the appeal is adjudicated by the City Council or is withdrawn.

B. Within five working days following the timely filing of an appeal, notice thereof and of the date, time and place for City Council consideration shall be mailed to the proponent and to all other parties of record. Such notice shall additionally indicate the deadline for submittal of written comments as prescribed in Section 2.22.110.

C. An applicable department director's decision which has been appealed shall come up for City Council consideration in open public meeting no later than thirty working days from the date the appeal was filed. The City Council shall consider the matter based upon information contained in the written record before the applicable department director, the applicable department director's decision, and the appeal.

D. The City Council may accept, modify or reject the applicable department director's decision, or any findings or conclusions therein, or may remand the decision to the applicable department director for further consideration. A decision by the City Council which modifies or rejects the department director's decision shall not be made until the City Council has held a properly advertised public hearing, and shall be supported by findings and conclusions.

E. If, prior to City Council action on the appeal of the department director's decision, the Council identifies additional conditions that should be required, and the applicant stipulates in writing his acceptance of those conditions, the Council may adopt those additional conditions without further public hearings, provided that these conditions:

1. Would not waive nor reduce any of the conditions recommended by the applicable department director or any code requirements; and
2. Would not increase the intensity of development, nor significantly alter the design or uses allowed by the proposal.

Any decision by the applicable department director shall reference the above provisions.


F. If it appears to the City Council that there is additional information which should have been supplied to the applicable

department director, or otherwise feels that the applicable department director should reconsider his decision, the City Council shall remand the decision to the applicable department director for further consideration and may specify information to be considered or to be provided by City Departments, or others.

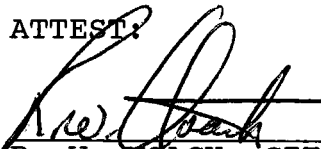
Section 15. Severability. If any section, subsection, paragraph, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, paragraph, sentence, clause, phrase or work of this ordinance.

Section 16. This ordinance shall be in full force and effect five (5) days after passage and publication by posting as provided by law.

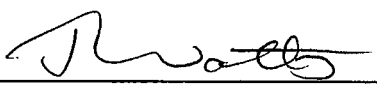
PASSED this 27th day of July, 1992, and signed in authentication of its passage this 28th day of July, 1992.



M. J. HRDLICKA, MAYOR

ATTEST:


R. W. NOACK, CITY CLERK

APPROVED AS TO FORM:


JOHN P. WATTS,
Office of City Attorney

PUBLISHED: August 4, 1992