

CITY OF LYNNWOOD

ORDINANCE NO. 2445

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, REGARDING ZONING DEVELOPMENT STANDARDS AND THE PRESERVATION, REHABILITATION, AND ENHANCEMENT OF HISTORICAL PROPERTIES, CREATING A NEW CHAPTER 21.80 OF THE LYNNWOOD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR SUMMARY PUBLICATION.

WHEREAS, the City Council has determined it is important to safeguard the heritage of the City of Lynnwood as represented by those sites, buildings, structures and landscapes that reflect significant elements of Lynnwood history; and

WHEREAS, there are occasions when compliance with zoning development standards acts as an impediment to the preservation, rehabilitation and enhancement of properties with local, state and/or national historical significance; and

WHEREAS, Policy HR-1.1 in the Cultural and Historic Resources Element of the City of Lynnwood Comprehensive Plan calls for development of an historical preservation program that provides incentives such as the relaxation of Zoning Code standards to encourage property owners to rehabilitate, restore, retain or reproduce historical elements of their properties; and

WHEREAS, the City Council has determined it is appropriate to reduce or waive certain zoning development standards, particularly those regarding building setbacks, parking, parking area landscaping and lot coverage for properties listed on a new City of Lynnwood historic landmark register.

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

Section 1. Chapter 21.80 of the Lynnwood Municipal Code is hereby enacted as follows:

**HISTORIC PRESERVATION**

**21.80.050 Purpose**

The purpose of this chapter is to encourage the preservation, rehabilitation, re-use and enhancement of eligible historic properties within the City of Lynnwood in order to:

- A. Safeguard the heritage of the City of Lynnwood as represented by those buildings, sites, structures and landscapes that reflect significant elements of Lynnwood history;
- B. Foster civic and neighborhood pride in the beauty and accomplishments of the past, and a sense of identity based on Lynnwood history;

- C. Stabilize or improve the aesthetic and economic vitality and values of such sites, buildings and structures;
- D. Conserve valuable material and energy resources by ongoing uses and maintenance of the existing built environment.

#### **21.80.100 Definitions**

The following words and terms when used in this chapter shall mean as follows, unless a different meaning clearly appears from the context:

- A. City of Lynnwood Register of Historic Landmarks. "City of Lynnwood Register of Historic Landmarks" or "Register" means the local listing of properties provided for in Section 21.80.400.
- B. Emergency repair. "Emergency repair" means work necessary to prevent destruction or disrepair to real property immediately threatened or damaged by fire, flood, earthquake, vandalism or other disaster.
- C. Historic property. "Historic property" means real property together with improvements thereon which is listed in the City of Lynnwood Register of Historic Landmarks, Washington State Heritage Register or the National Register of Historic Places.
- D. National Register of Historic Places. "National Register of Historic Places" means the register maintained by the Secretary of the Interior composed of districts, sites, buildings, structures and objects significant in American history, architectural history, archaeology, engineering, and culture.
- E. Ordinary repair and maintenance. "Ordinary repair and maintenance" means work for which a permit issued by the City of Lynnwood is not required by law, and where the purpose and effect of such work is to correct any deterioration or decay of, or damage to, the real property or structure appurtenances thereto and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay, or damage.
- F. Rehabilitation. "Rehabilitation" is the process of returning a property to a state of utility through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property that are significant to its architectural and cultural values.
- G. Washington Heritage Register. "Washington Heritage Register" means the state listing of properties significant to the community, state, or nation that may or may not meet the criteria of the National Register of Historic Places.
- H. Washington State Advisory Council Standards for the Rehabilitation and Maintenance of Historic Properties. "Washington State Advisory Council Standards for the Rehabilitation and Maintenance of Historic Properties" means

the rehabilitation and maintenance standards as set forth in WAC 254-20-100 as presently enacted or hereinafter amended as minimum requirements for determining whether or not an historic property is eligible for special valuation and whether or not the property continues to be eligible for special valuation once it has been so classified.

#### **21.80.150 Application**

- A. The owner(s) of any property listed on the City of Lynnwood Register of Historic Landmarks may apply for approval for reduction or waiving of certain development standards under this chapter. An application for the above shall at a minimum:
1. Identify the property(ies) for which development standards reduction or waiving is proposed; and
  2. Include a site plan (and landscape plan if necessary) to scale indicating existing and proposed building(s), parking and site landscaping.
    - a. The site and/or landscape plan shall indicate the following:
      - i. Existing and proposed building(s) setbacks from property lines;
      - ii. Existing and proposed lot coverage;
      - iii. Existing and proposed parking;
      - iv. Width of existing and proposed street frontage landscaping and percentage of existing and proposed parking lot landscaping;
      - v. All structures to be demolished.
  3. Include building elevations to scale indicating existing facades and any proposed modifications and/or additions to existing facades. Elevations shall also indicate exterior building materials.
- B. A property owner may apply for approval to reduce or waive development standards under this chapter while the Historical Commission is reviewing a nomination by the owner to designate the property for the Register. However, the Director shall not issue a decision on an application to reduce or waive development standards until the Historical Commission has approved designation of the property to the Register.

#### **21.80.175 Process**

The Community Development Director shall consider applications to reduce or waive requirements of the Zoning Code (LMC Title 21) for properties listed on the City of

Lynnwood Register of Historic Landmarks utilizing Process III administrative permits review and approval (LMC 1.35.300).

#### **21.80.200 Authority for Reduction or Waiving Development Standards**

The Community Development Director (Director) may reduce or waive requirements of the Zoning Code (LMC Title 21) for properties listed on the City of Lynnwood Register of Historic Landmarks if:

- A. The applicant has carried the burden of proof and produced evidence sufficient to support the conclusion that the application merits approval or approval with modifications;
- B. The applicant has demonstrated that the proposal complies with applicable decision criteria of this chapter; and
- C. The subject property is listed on the City of Lynnwood Register of Historic Landmarks.

#### **21.80.250 Decision Criteria**

The Director may approve or approve with modifications an application to reduce or waive Zoning Code development standards specified under 21.80.300 if:

- A. The proposal is not injurious to the surrounding properties or detrimental to the public welfare;
- B. The proposal is consistent with other applicable requirements and regulations of the Lynnwood Municipal Code;
- C. The proposal does not cause a significant adverse environmental impact; and
- D. The proposal is not precluded by city code or state law from being decided administratively.

#### **21.80.300 Development Standards Limitations**

Zoning Code development standards identified below may be reduced or waived subject to limitations specified under this section.

- A. **Building Setbacks**
  - 1. Any structure listed on the Register may be rehabilitated regardless of existing nonconforming building setbacks as long as the work is consistent with the architectural review requirements of 21.80.350.

2. Additions to an historic structure listed on the Register may be made as long as they do not increase an existing nonconforming setback and they are consistent with the architectural review requirements of 21.80.350.

B. Parking

1. Minimum parking standards may be reduced for a property listed on the Register if it can be demonstrated that adequate parking can be provided for the historic property.
2. Shared parking may be approved if it can be demonstrated that adequate parking can be provided for the property listed on the Register and other properties where sharing is to occur.
3. Nearby on-street parking may be included in this analysis.

C. Parking Area Landscaping

1. Parking area landscaping requirements may be reduced or waived for a property listed on the Register subject to the following:
  - a. Street frontage and parking area coverage landscaping should be provided, where feasible, as long as it does not affect the provision of adequate parking.

D. Lot Coverage

1. Any structure listed on the Register may be rehabilitated regardless of existing nonconforming lot coverage.
2. Additions to structures listed on the Register may be made as long as they do not increase existing nonconforming lot coverage, if that condition exists.

E. Other Development Standards

1. The Community Development Director may reduce and waive other Zoning Code development standards based on physical conditions and special circumstances of a property listed on the Register.

**21.80.350 Architectural Review**

A. Rehabilitation of structures listed on the Register shall be:

1. Consistent with the US Secretary of Interior's Standards for Rehabilitation or Washington State Advisory Council's Standards for the Rehabilitation and Maintenance of Historic Properties; and

2. Reviewed by a public agency or consulting architect with appropriate architectural review expertise.
- B. Ordinary repair and maintenance and emergency repair to structures listed on the register are exempt from the above architectural review requirement.

#### **21.80.400 City of Lynnwood Register of Historic Landmarks**

A. **Criteria for Determining Designation in Register**

Any building, structure, site, object or landscape (including trees and other plants) may be designated for listing in the City of Lynnwood Register of Historic Landmarks, with owner consent, by the Lynnwood Historical Commission. The criterion for age is at least fifty (50) years. The building, structure, site, object or landscape must possess integrity of location, design, setting, materials, workmanship, feeling, species, age and association, that is significant in the history, architecture, archaeology, engineering or cultural heritage of America, Washington State and/or City of Lynnwood. In addition to meeting the age and historical significance criteria, the following criteria will be considered:

1. That are associated with significant historic events; or
2. That are associated with a person or persons who significantly contributed to the culture and development of the City of Lynnwood; or
3. That embody the distinctive characteristics of a type, period, or method of construction, architectural design, detail, material, craftsmanship, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
4. That exemplify the cultural, economic, social, or historic heritage of the City of Lynnwood; or
5. That embody distinguishing characteristics of an architectural type or specimen; or
6. That embody elements of architectural design, detail, materials, or craftsmanship that represent a significant architectural innovation; or
7. That have a relationship to other distinctive areas that are eligible for preservation according to a plan based on an historic, cultural, or architectural motif; or
8. That have a unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood, community, or the City of Lynnwood; or

9. That have yielded, or may be likely to yield information important in prehistory or history; or
10. That by virtue of the species, age, scarcity, outstanding quality, location or connection to an historic event or person such landscape, trees or other plant material contribute significantly to the community or the City of Lynnwood.

B. Special Criteria for Determining Designation in Register

Ordinarily cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past fifty (50) years shall not be considered eligible for the Register. However, such properties may qualify if they are integral parts of districts that meet the criteria of 21.80.400.A or if they meet the following criteria:

1. A religious property deriving primary significance from architectural or artistic distinction or historical importance; or
2. A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with an historic person or event; or
3. A birthplace or grave of an historical figure of outstanding importance if there is no appropriate site or building directly associated with his/her productive life; or
4. A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events; or
5. A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or
6. A property, building, structure or object primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance; or
7. A property, building, structure or object achieving significance within the past fifty (50) years if it is of exceptional importance; or
8. A property, building, structure or object that exemplifies or promotes the value of historic preservation and contributes to a better understanding of a connection to Lynnwood's or the area's history.

C. Process for Designating Properties to the Register of Historic Landmarks

1. **Nomination.** Any person may nominate, with the property owner's consent, a building, structure, site, object or landscape for listing in the City of Lynnwood Register of Historic Landmarks. In its designation decision, the Historical Commission shall consider the criteria in Section 21.80.400, Historical Commission's Historic Resources Inventory and the Comprehensive Plan.
2. **Notification of Review.** The public, property owner(s), lessee and nominator shall be notified prior to the required public hearing included in the Commission's review of the nomination.
  - a. The notice shall contain the following:
    - i. Date, time and location of the public hearing and meeting.
    - ii. Name of the nominator(s).
    - iii. Street address of the property.
    - iv. Brief description of the historic significance of the property.
  - b. The notice shall be mailed to the property owner, lessee and nominator at least 14 days prior to the public hearing.
  - c. The notice shall be published by a display advertisement in the official daily newspaper of the city at least 14 days prior to the public hearing.
  - d. The notice shall be posted per LMC 1.12.010 and at the site at least 14 days prior to the public hearing.
3. **Review.** The Historical Commission shall consider the merits of the nomination, according to the criteria in Section 21.80.400 at a public meeting and following a public hearing on the nomination. Any public hearing or public meeting noticed and opened by the Commission may be continued as determined necessary by the board.
4. **Findings.** If the Historical Commission finds that the nominated property is eligible for the Register, the Commission shall designate, with owner's consent, the property as listed on the Register.
  - a. In the case of individual properties, the designation shall include a site reference and all features, interior and exterior, and outbuildings that contribute to its designation.
5. **Notification of Designation.** The public, property owner(s), lessee, and nominator shall be notified of the Historical Commission's designation.



- a. Notice of the Commission's decision shall be mailed to the owner, lessee and nominator within five (5) working days of the decision.
  - b. Notice of the decision will be mailed to any person who has specifically requested it.
6. Recording. Properties listed on the Register of Historic Landmarks shall be identified on the City's zoning map. The owner shall record the designation with the Snohomish County Auditor within thirty (30) days of the designation of the property as listed on the Register. The recorded document shall include a condition that the owner and the owner's successors heirs, and assigns shall be responsible for maintaining the historical features of the property identified by the Historical Commission in its findings designating the eligibility of the property for the Register and be prohibited from any act or omission resulting in alterations to the property that result in loss of the property's historical significance, within ten (10) years of the date of the designation of the property on the Register. The covenant shall further provide for agreement by the owner and the owner's successors, heirs and assigns that in the event that the property is removed from the Register during the ten (10) year period pursuant to subsection D below, that the reduction or waiver of Zoning Code development standards granted by the Community Development Director pursuant to this chapter shall be immediately terminated and revoked, and that any use of the property or structure on the property not in compliance with the Zoning Code development standards existing on the date(s) a building or other city permit or approval was granted for the then current use or structure shall be an illegal use and/or structure for which the certificate or right of occupancy shall be immediately terminated.

D. Removal of Properties from the Register

1. A property may be removed from the Register if alterations to the property result in loss of historical integrity.
2. In the event that any property is no longer deemed appropriate for designation to the Register, the Commission may initiate removal from such designation by the same procedure as provided for in establishing the designation. A property may be removed from the Register without the owner's consent.
3. An owner may initiate removal of their property from the Register. Removal of the property from designation to the Register shall be by the same procedure as provided for in establishing the designation.
4. It is intended that any property listed on the Register that is benefited by any reduction or waiver of zoning or other land use regulations as provided for in this chapter shall remain listed for a period running at least ten (10) years from the date the Historical Commission designated the property as listed on the Register. This ten-year condition shall be recognized of record in a covenant

running with the land as described in subsection C above, and is binding on the owner and all heirs, successors and assigns of the owner.

E. **Effects of Listing on the Register**

1. Listing on the Register is an honorary designation denoting significant association with the historic, archaeological, engineering, or cultural heritage of the community. Properties are listed individually or as contributing properties to an historic district.

**21.80.450 Effects of Removing Properties from the Register**

- A. In the event that a property on the Register that has been granted reduction or waiving of zoning code development standards is removed from the Register by the owner or the Historical Commission after ten (10) years from the date of the designation of the Register, the property shall be considered legally non-conforming with respect to those development standards that were reduced or waived.
- B. In the event that a property is removed from the Register before ten (10) years have elapsed since the date of the designation on the Register, any change in use of the property, or alteration or change in occupancy of structures on the property resulting from a reduction or waiver of zoning code development standards shall be considered an illegal use and an illegal structure, and the certificate of occupancy issued for the use shall be revoked.

**21.80.500 Additional Information and Conditions**

The Community Development Director may require additional information and impose any conditions necessary to protect surrounding properties in approving reductions or waiving of Zoning Code development standards.

**21.80.550 Appeal**

The Community Development Director's decision to reduce or waive Zoning Code development standards may be appealed to the Hearing Examiner under Process II (LMC 1.35.200).

Section 2. 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 3. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect June 1, 2003, which shall be five (5) days after passage and publication of an approved summary thereof consisting of the title.

PASSED this 24th day of March, 2003 and signed in authentication of its passage this 25th day of March, 2003.



MIKE MCKINNON, MAYOR

ATTEST:



MICHAEL BAILEY  
Administrative Services Director

APPROVED AS TO FORM:



GREG A. RUBSTELLO  
Lynnwood City Attorney