



ORDINANCE NO. 2957

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, RELATING TO PERMIT PROCESSING AND PERMIT DECISION AUTHORITY; AMENDING LYNNWOOD MUNICIPAL CODE SECTIONS 1.35.004, 1.35.100, 1.35.115, 1.35.160, 1.35.175, 1.35.180, 1.35.400, 1.35.415, 1.35.460, 2.22.090, 2.22.100, 17.02.195, 17.10.120, 19.15.007, 19.15.010, 19.20.022, 19.20.025, 19.20.035, 19.20.040, 19.20.045, 19.25.005, 19.45.005, 21.22.400, 21.30.300 AND 21.30.320; REPEALING LYNNWOOD MUNICIPAL CODE SECTIONS 1.35.434, 1.35.450, 19.20.030, and 21.22.350; RECODIFYING SECTIONS 1.35.800 AND 1.35.810; STANDARDIZING REFERENCES TO THE COMMUNITY DEVELOPMENT DEPARTMENT AND COMMUNITY DEVELOPMENT DIRECTOR; AND PROVIDING FOR AN EFFECTIVE DATE, SEVERABILITY, AND SUMMARY PUBLICATION.

WHEREAS, the City Council is authorized by RCW 35A.11.020 to adopt and enforce ordinances of all kinds relating to municipal affairs and appropriate to the good government of the City; and

WHEREAS, the City desires to amend various permit processing provisions set forth in the Lynnwood Municipal Code to provide a more streamlined set of procedures; and

WHEREAS, on April 26, 2012, the City notified the Department of Commerce of its intent to adopt the proposed regulations; and

WHEREAS, the Community Development Director, acting as the SEPA Responsible Official, reviewed the amendments proposed herein and determined the provisions of this Ordinance are procedural in nature and therefore exempt from SEPA threshold determination and EIS requirements as provided by WAC 197-11-800(19); and

WHEREAS, RCW 43.21C.075 and WAC 197-11-680(3)(a) allow local jurisdictions to determine whether lead agency decisions made pursuant to the State Environmental Policy Act (SEPA) are subject to appeal to a local entity; and

WHEREAS, the provisions of this Ordinance amend Chapter 1.35 LMC, Application Processing and Review, which contains procedural requirements rather than development regulations; and

WHEREAS, the opportunity for public comment upon an amendment to the City's SEPA rules, as required by WAC 197-11-904(3), was satisfied by the June 28, 2012 public hearing before the Planning Commission, and the August 13, 2012 public hearing before the City Council; and

WHEREAS, pursuant to LMC 21.20.500, the City Council finds that the amendments contained in this Ordinance are: a) consistent with the comprehensive plan; and b) substantially related to the public health, safety or welfare; and c) not contrary to the best interest of the citizens and property owners of the City of Lynnwood; now therefore:

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

Section 1. LMC 1.35.004 is amended as follows:

1.35.004 Environmental review and limitation on hearings and appeals.

Land use permit review procedures shall:

- A. Be combined with environmental review processes, both substantive and procedural; and
- B. Provide for no more than one open record hearing and one closed record appeal.

Section 2. LMC 1.35.100 is amended as follows:

1.35.100 Process I: public hearing and decision by the hearing examiner– Scope.

LMC 1.35.100 through 1.35.180 contain the procedures that the city will use in implementing Process I. This process includes a public hearing and decision by the hearing examiner, and allows for appeal of the hearing examiner decision.

Section 3. LMC 1.35.115 is amended as follows:

1.35.115 Decision and Appeal Authority.

1. For permits and applications subject to Process I, the hearing examiner shall conduct a public hearing and, following completion of the hearing, approve, approve with modifications or conditions, or deny the application or permit.
2. A Process I decision of the hearing examiner on a land use matter is appealable to superior court as provided by Chapter 36.70C RCW.

3. A Process I decision of the hearing examiner on a non-land use matter is appealable to the city council (Process VII), or as specified by applicable regulations.

Section 4. LMC 1.35.160 is amended as follows:

1.35.160 Written decision.

Within 14 calendar days of the conclusion of the hearing, the hearing examiner shall issue a written decision, containing:

- A. A statement indicating that the application is approved, approved with modifications or conditions, or denied;
- B. A statement of any conditions or modifications included as part of an approval;
- C. A statement of the facts upon which the decision, including any modifications or conditions, is based and the conclusions derived from those facts;
- D. A statement of the right of any party of record (see LMC 1.35.148) to appeal the decision to superior court as provided by Chapter 36.70C RCW.

Section 5. LMC 1.35.175 is amended as follows:

1.35.175 Appeal of hearing examiner decision. A decision of the hearing examiner shall be appealable to superior court pursuant to the land use petition act (Chapter 36.70C RCW). As specified by RCW 36.70C.040, an appeal must be filed within 21 days from the date on which a decision is issued. The date of issue is three days after mailing. The cost to produce any record, including a transcript, shall be paid by the appellant.

Section 6. LMC 1.35.180 is amended as follows:

1.35.180 Amendment of an approved project or permit.

- A. General. Except as otherwise provided in this section, an amendment of an approved project or permit shall be treated as a new application for decision using Process I.
- B. Administrative Amendment of Conditional Use Permits, Shoreline Conditional Use Permits, and Planned Unit Developments. The following additions and activities to an approved project or decision are exempt from conditional use permits, and planned unit development review,

unless otherwise required by city code or by the terms of a concomitant agreement:

1. Repair without a change in the dimensions or configuration of the structure or sign; or
2. The addition of minor structural elements and elements such as fences, carports and mechanical equipment; or
3. Re-stripping of parking or circulation areas, minor adjustments to parking area layout; provided the total number of stalls does not fall below or exceed the requirements of the zoning code; or
4. Minor adjustments in building height not to exceed 10 percent in height, or minor adjustments in building location not to exceed 10 feet in any direction; provided the structures do not vary from zoning code requirements to any greater extent than as approved with the original application; or
5. Reductions in freestanding sign size and height, and minor increases in sign height not to exceed 10 percent in height, or minor adjustments in sign location not to exceed five feet in any direction; provided, the sign(s) does not vary from zoning code requirements to any greater extent than as approved with the original application; or
6. Reductions in wall sign size, and minor adjustments in sign location on any one side of a building as long as the minor adjustments maintain the design intent or purpose of the original approval; or
7. Changes in color, design or in plant material, as long as changes maintain the design intent or purpose of the original approval.

C. Additional Criteria. In addition to those additions and activities listed in subsection (B) of this section, the community development director may determine that a proposed amendment to an approved project or permit is not suitable for administrative review if:

1. The proposal may result in any unmitigated significant adverse impact; and
2. The proposal is inconsistent with PUD/conditional use permit requirements or applicable decision criteria; and

3. The proposal adds more than 300 square feet of new floor area per building, to approved building(s).

D. Appeal. The decision of the community development director pursuant to this section is appealable to the hearing examiner using Process II.

E. Decision Criteria for Administrative Amendment. The community development director shall act on a proposed amendment to an approved project or permit, including signs and sign programs, if:

1. The amendment maintains the design intent or purpose of the original approval, and does not modify zoning code requirements to any greater extent than any modifications approved with the original application; and
2. The amendment maintains the quality of design or product established by the original approval; and
3. The amendment does not add more than the following:
 - a. An addition of 20 percent gross square footage or more than 5,000 square feet for an existing or approved building, whichever is less; or
 - b. An addition of 5,000 square feet maximum for new structures; or
 - c. An increase of 20 percent of total existing sign area for freestanding signs, and/or 20 percent increase of total existing sign area for wall signs not to exceed maximum allowed by code; and
4. An addition of up to 1,500 square feet per existing or approved building is automatically treated as an administrative amendment unless the addition is exempt under subsection (B) of this section; and
5. The amendment does not cause a significant adverse environmental impact on or beyond the site; and
6. The amendment is not precluded by the terms of the city code or by state law from being decided administratively.

7. 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; and

8. The applicant has demonstrated that the proposal complies with the applicable decision criteria of the city code.

In all other cases, the community development director shall deny the application.

F. Conditions. The community development director may include conditions as part of the approval or approval with modifications to insure conformance with the provisions of this section.

G. Written Proposed Decision. The community development director shall issue a written proposed decision on the administrative amendment which contains the following:

1. A description of the project or decision and the proposed administrative amendment; and

2. An analysis of the proposed administrative amendment using the applicable decision criteria and a determination that the administrative amendment is within the scope of an administrative amendment pursuant to subsection (E) of this section; and

3. A statement that the administrative amendment is proposed to be approved, approved with modifications or denied subject to the provisions of this section; and

4. A statement of facts upon which the proposed decision, including any conditions, was based and conclusions derived from those facts.

H. Notice of Decision.

1. Content. The community development director shall issue notice of the decision containing the following:

a. The name of the applicant, and if applicable, the project name; and

b. The street address of the subject property and a description in nonlegal terms sufficient to identify its location; and

- c. A vicinity map indicating the location of the subject property;
and
- d. The file number of the previously approved project or decision;
and
- e. A brief description of the previously approved project or
decision and of the proposed administrative amendment; and
- f. A statement that the decision of the director is appealable to
the hearing examiner.

2. Distribution. The community development director shall issue notice of the decision to:

- a. The applicant; and
- b. Each owner of real property abutting or directly across a public
right-of-way from all contiguous property owned by the applicant
determined by projecting the property line of that property; and
- c. Each person who has requested such notice in writing for the
calendar year and who has paid the fee established by the community
development director; and
- d. Each person who can be identified from existing city records as
having participated in the original decision.

Section 7. LMC 1.35.400 is amended as follows:

**1.35.400 Process IV: decision by the city council after review by the
planning commission or hearing examiner – Scope.**

LMC 1.35.400 through 1.35.480 contain two procedures that the city may use in implementing Process IV. This process includes a decision by the city council during an open public meeting. Prior to final action by the city council, one or more public hearings will be held.

Section 8. LMC 1.35.415 is amended as follows:

1.35.415 Authority for hearings and decisions.

A. The city council shall evaluate the application and relevant information and shall make the final decision to approve, approve with modifications or conditions, or deny an application reviewed under this process.

B. For applications for quasi-judicial permits the hearing examiner shall conduct a public hearing and at the conclusion of the hearing make a recommendation to the city council. The hearing examiner recommendation shall include, and be based upon, written findings of fact and conclusions of law. During an open public meeting, the city council shall consider the public record established by the hearing examiner and the recommendation of the hearing examiner and make the final decision as provided by subsection A above.

C. For legislative actions, the planning commission shall conduct a public hearing and make a recommendation to the city council. The city council shall conduct a public hearing and make the final decision as provided by subsection A above.

Section 9. REPEALER. LMC 1.35.434 is repealed.

~~1.35.434 Quasi-judicial permits— Informal public meeting.~~

~~A. Reclassification of Property (Rezone). The planning commission shall hold an informal public meeting on a proposed rezone. This meeting shall be held at a regularly scheduled meeting of the planning commission, and the planning commission may receive public comment on the application. Following any public comments, the planning commission shall make a recommendation to the city council regarding the proposal and may recommend modifications to the proposal or conditions of approval that the planning commission believes are necessary to fulfill city requirements or other adopted policies regarding reclassifications of property. Notice of this informal public meeting may be provided in the notice of application (see LMC 1.35.020).~~

~~B. Subdivisions. The hearing examiner shall hold an informal public meeting on the proposal. This meeting shall be held at a regularly scheduled meeting of the hearing examiner, and the hearing examiner may receive public comment on the application. Following the informal public meeting, the hearing examiner shall issue a written recommendation to the city council regarding the proposal and may recommend modifications to the proposal or conditions of approval that the hearing examiner believes are necessary to fulfill city requirements or other adopted policies regarding subdivisions. Notice of this informal public meeting may be provided in the notice of application (see LMC 1.35.020). When a planned unit development is submitted for consolidated processing with a subdivision (see LMC 1.35.080), the informal meeting shall also consider the proposed planned unit development.~~

Section 10. REPEALER. LMC 1.35.450 is repealed.

~~1.35.450 Decision.~~

~~After the close of the public hearing, the city council shall either approve, approve with modifications or conditions, or deny the application. The city council may continue the hearing;~~

~~provided, that for applications subject to the time limit in LMC 1.35.025, final action is completed and a notice of decisions is issued in compliance with that time limit.~~

Section 11. LMC 1.35.460 is amended as follows:

1.35.460 Findings of fact and conclusions of law.

For quasi-judicial Process IV permits, the city council shall adopt findings of fact and conclusions derived from those facts which support the decision of the city council to deny, approve or approve with modifications or conditions. The city council may, by reference, adopt some or all of the findings and conclusions recommended by the hearing examiner.

Section 12. LMC 2.22.090 is amended as follows:

2.22.090 Hearing examiner— Powers.

The examiner shall receive and examine available information, conduct public hearings and prepare a record thereof, and enter decisions.

A. In the performance of duties prescribed by this chapter or other ordinances, examiners may:

1. Administer oaths and affirmations, examine witnesses, rule upon offers of proof, receive relevant evidence, and conduct discovery procedures which may include propounding interrogatories and taking oral depositions pursuant to Washington State Court rules; provided, that no person shall be compelled to divulge information which he could not be compelled to divulge in a court of law;
2. Upon the request of the community development department or any party, or upon his own volition, issue and cause to be served subpoenas for the attendance of witnesses and for production for examination of any books, records, or other information in the possession or under the control of any witness; provided, that such subpoena shall state the name and address of the witness sought, and if for the production of books, documents or things, shall specifically identify the same and the relevance thereof to the issues involved;
3. Regulate the course of the hearing in accordance with this chapter and other applicable ordinances;
4. Hold conferences for the settlement or simplification of the issues by consent of the parties;

5. Dispose of procedural requests or similar matters;
6. Take any other action authorized by ordinance.

In case of failure or refusal without lawful excuse of any person duly subpoenaed to attend pursuant to such subpoena, or to be sworn, or to answer any material and proper question, or to produce upon reasonable notice any material or proper books or records or other information in his possession and under his control, the hearing examiner may invoke the aid of the city attorney who shall apply to the appropriate court for an order or other court action necessary to secure enforcement of the subpoena.

Section 13. LMC 2.22.100 is amended as follows:

2.22.100 Land use issues– Report of community development department.

On any land use issue coming before the examiner, the community development department shall coordinate and assemble the reviews of other city departments, governmental agencies, and other interested parties and shall prepare a report summarizing the factors involved and the department's findings and recommendations. At least seven calendar days prior to the scheduled hearing, the report shall be filed with the examiner and copies thereof shall be mailed to the applicant and made available for public inspection. Copies thereof shall be provided to interested parties upon payment of reproduction costs. In the event that information to be provided by the applicant or other parties outside of city control has not been provided in sufficient time for filing seven days in advance of the hearing, the community development department may reschedule the hearing and notify interested parties.

Section 14. LMC 17.02.195 is amended as follows:

17.02.195 Appeals (WAC 173-806-170).

A. The city establishes the following administrative appeal procedures under RCW 43.21C.075 (as amended by Chapter 347, Laws of 1995 (ESHB 1724)), WAC 197-11-680 and RCW 43.21C.060. These administrative appeal procedures supersede procedures for administrative appeals provided for in Chapter 1.35 of this Code.

1. Any agency or person may appeal the city's procedural compliance with Chapter 197-11 WAC for issuance of the following:
 - a. Determination of non-significance;

b. Mitigated determination of non-significance;

c. Adequacy of an FEIS.

2. Appeals must be filed within the following timelines:

a. An appeal of a determination of nonsignificance (DNS) or mitigated DNS must be filed in writing with the community development department within 14 calendar days of the date that the DNS or mitigated DNS becomes final.

b. A determination of significance (DS) shall not be subject to appeal.

c. Appeals of a final EIS must be filed in writing with the community development department within 14 days of the issuance of the Final EIS by the city.

3. The appeal of a determination under SEPA shall be considered with the decision on the underlying governmental action in the following manner.

a. If the initial decision on the underlying governmental action is made by the hearing examiner (e.g. conditional use permit), the SEPA appeal shall be heard by the hearing examiner at the same time as the public hearing on the underlying action. The hearing examiner shall render a decision on both the SEPA appeal and the underlying action.

b. If the initial decision on the underlying governmental action is made by a city employee or official with a right of appeal to the hearing examiner, the SEPA appeal shall be heard by the examiner at the same time as the hearing on the appeal of the underlying action, if the underlying action is appealed. The hearing examiner shall render a decision on both appeals. In cases where the underlying action is not appealed, the hearing examiner shall render the decision on the SEPA appeal and any time frame for filing an action under the Land Use Petition Act (LUPA) for the underlying action shall be suspended pending conclusion of the city's SEPA appeal process.

c. If the initial decision on the underlying governmental action is made by the city council after a public hearing, the SEPA appeal shall be heard and decided by the city council at the same time.

d. If the proposal is a non-project action (i.e. legislative or other actions not meeting the definition of a Project Permit pursuant to LMC 1.35.005

“Project permit– Definition”), then the hearing examiner shall render a decision on the SEPA appeal (prior to the planning commission public hearing.)

B. The decision on a SEPA appeal shall be final, with no additional administrative appeal.

C. As provided in RCW 43.21C.075(3)(d), the environmental determination of the responsible official shall be entitled to substantial weight.

D. The appellant shall have the burden of establishing that the environmental determination is clearly erroneous.

E. Only one appeal of an environmental determination made by the responsible official shall be allowed on a proposal. If more than one person files an appeal of an environmental determination on a proposal, such appeals shall be consolidated.

F. The city shall give official notice under WAC 197-11-680(5) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal.

Note: see also LMC 17.02.200(E).

Section 15. LMC 17.10.120 is amended as follows:

17.10.120 Appeals.

Any person who objects to the decision of the city under this chapter may file an appeal. An appeal of a Process III or other administrative decision is appealable to the hearing examiner using the procedure under Process II (LMC 1.35.200 through 1.35.260). An appeal of a Process I, II, or other hearing examiner decision on a land use permit is appealable to superior court using the procedure under chapter 36.70C RCW.

Section 16. LMC 19.15.007 is amended as follows:

19.15.007 Procedure.

The city will process an application for a preliminary plat through Process I (LMC 1.35.100 through 1.35.180).

Section 17. LMC 19.15.010 is amended as follows:

19.15.010 Plat approval process.

The procedures and responsibilities for processing plat applications shall be as follows:

A. Hearing Examiner. The hearing examiner is authorized to hold a public hearing on all preliminary plats and to render a decision pursuant to Process I. In making the decision, the hearing examiner shall make findings of fact and conclusions of law to indicate that the proposed subdivision is in conformance with the zoning ordinance and other applicable land use controls, this title and state law.

B. Community Development Department. The community development department shall coordinate all activities concerning the preliminary plat including routing departmental and outside agency reviews and recommendations and consolidating staff recommendations to the hearing examiner. This provision shall not be construed to conflict with the duties of other named city officials as mentioned in this title.

C. City Council. The Lynnwood city council shall have sole authority to approve final plats. No plat may be approved unless the city council makes a formal finding of fact that the proposed final plat is in conformance with the zoning code and all other applicable land use regulations, this title and state law.

Section 18. LMC 19.20.022 is amended as follows:

19.20.022 Notice requirements.

The community development director shall provide notice of public hearings when appropriate in accordance with the notification requirements set forth in LMC 1.35.440.

Section 19. LMC 19.20.025 is amended as follows:

19.20.025 Hearing examiner public hearing and decision.

A. Hearing Examiner Public Hearing and Decision. The hearing examiner shall be responsible for holding a public hearing to review all proposed preliminary plats together with accompanying materials and documents, land use applications, staff reports and public testimony. Based on the comments and testimony established at the public hearing, the hearing examiner shall render a decision on the preliminary plat and other related land use applications or return the plat to the applicant with a request for additional information. The hearing examiner decision shall

be for approval, disapproval, or approval with conditions. In issuing a decision on any proposed plat, the hearing examiner shall prepare written findings of fact and conclusions of law which shall state the hearing examiner's reasons for the decision.

Section 20. REPEALER. LMC 19.20.030 is repealed.

~~19.20.030 City council action.~~

~~A. The hearing examiner recommendation, findings and all supporting documents shall be forwarded to the city council. The community development department shall set a date and time for a public hearing before the city council to review the recommendation of the hearing examiner. The city council shall then make its own decision supported by written findings of fact and conclusions of law and approve, approve with conditions, or disapprove the preliminary plat.~~

~~B. Prior to making a decision the city council may refer the plat back to the hearing examiner for further consideration or may require the applicant to modify the plat, or require more information to be submitted.~~

Section 21. LMC 19.20.035 is amended as follows:

19.20.035 Factors to be considered in the preliminary plat process.

Hearing examiner action on preliminary plats shall be based on review of Chapter 58.17 RCW and the following factors:

- A. The preliminary plat shall conform to and it shall be the applicant's burden to demonstrate conformance to the following factors as they now exist or as they may be amended:
1. The goals, policies and objectives of the Lynnwood comprehensive plan;
 2. The Lynnwood comprehensive parks and recreation plan;
 3. The Lynnwood zoning code;
 4. The standards of this title and Chapter 58.17 RCW;
 5. The Lynnwood comprehensive street and arterial plan;
 6. The standards of Title 17 LMC, Environment;
 7. The Lynnwood water system comprehensive plan;

8. The Lynnwood comprehensive flood and drainage management plan, and Chapter 13.40 LMC, Drainage Plans;

9. The compatibility of the plat to the existing neighborhoods;

10. Other plans and programs as the city of Lynnwood may adopt.

B. A proposed subdivision and dedication shall not be approved unless the hearing examiner makes written findings that:

1. Appropriate provisions are made for, but not limited to:

a. The public health, safety, and general welfare;

b. Open spaces, drainage ways, streets, roads, alleys, other public ways and transit stops;

c. Potable water supplies, and sanitary wastes;

d. Parks and recreation, playgrounds, schools and school grounds;

e. All other relevant facts, including sidewalks and other planning features that assure safe walking conditions.

2. The public use and interest will be served by the platting of such subdivision and dedication.

3. The proposed subdivision and dedication is in conformity with the Lynnwood zoning code and land use controls.

Section 22. LMC 19.20.040 is amended as follows:

19.20.040 Time limits, extensions and effect of preliminary plat approval.

A. The hearing examiner shall approve, approve with conditions, disapprove or return to the applicant for modification all preliminary plats of proposed subdivisions within the timeframe specified by RCW 58.17.140.

B. The subdivider shall submit to the city a final plat meeting all requirements of this title within the timeframe specified by RCW 58.17.140. Failure to do so will result in the expiration of preliminary plat

approval; provided, however, that upon written application to the community development department at least 30 days prior to the expiration of the time period and upon satisfactory showing that a good faith effort has been made to submit the final plat within the time period, the community development director or designee may grant a single, one-year extension of time in which to submit the final plat for approval.

C. Approval of a preliminary plat by the hearing examiner is approval of the proposed subdivision's design, and relationship with adjoining property. The engineering, construction and installation of improvements and final platting detail shall be subject to approval of the public works director. Approval of the preliminary plat shall authorize the subdivider to proceed with the preparation of the final plat in conformance with the approved preliminary plat and the conditions stipulated. Upon the approval of detailed construction plans by the public works director, construction and installation of the improvements may proceed.

Section 23. LMC 19.20.045 is amended as follows:

19.20.045 Methods and procedure for carrying out improvements.

A. If the preliminary plat is approved by the hearing examiner, the city may accept a bond or other secure method providing for and securing to the city the actual construction and installation of minimum improvements in accordance with the provisions of LMC 19.20.042 within one year by any of the following methods:

1. By furnishing the city of Lynnwood with a performance bond satisfactory to the public works director and city attorney, in which guarantee is given the city that the installation of the minimum improvements will be carried out as provided in LMC 19.20.042 and according to the specifications of the public works director within one year;
2. By actual installation of improvements in accordance with the installation requirements and under the supervision of the public works director and furnishing a bond approved by the city attorney securing successful operation of the improvements for a period of 24 months following completion and acceptance thereof by the city;
3. By formation of a local improvement district;
4. By a cash deposit with the city or suitable escrow;

5. By a combination of these methods; and

6. By such other reasonable guarantee acceptable to the public works director and approved by the city attorney.

B. The subdivider may then make application for such permits from the local officers, officials and authorities as are necessary to proceed with the installation of the plat improvements.

C. After completing all minimum improvements, the subdivider shall make written request to the public works director for inspection. After finding that all improvements have been completed or provided for in accordance with the installation standards, the public works director shall so notify the community development director.

D. Upon receipt of this notification, the community development director shall advise the subdivider that a final plat may be submitted for that portion of the area contained in the proposed plat, subdivision, or dedication in which minimum improvements have been installed or concerning which a performance bond or other acceptable surety has been posted. The subdivider may then submit the final plat in accordance with Chapter 19.25 LMC.

Section 24. LMC 19.25.005 is amended as follows:

19.25.005 Application.

A. Submittal to the Community Development Department. After approval of the preliminary plat and the detailed construction plans and within the time limits set forth in LMC 19.20.040, the subdivider shall prepare a final plat and the supplementary materials required by this chapter. The final plat shall be submitted to the community development department along with the supplementary materials as per LMC 19.25.010.

B. Conformance with Preliminary Plat. The final plat shall conform to the preliminary plat approved by the hearing examiner and to any conditions that may have been part of the approval. Slight deviations from the approved preliminary plat may be allowed if the community development director and/or public works director determine such deviations are necessary because of unforeseen technical problems.

C. Submittal Requirements. The final plat shall be prepared on mylar or other similar material, 18 inches by 24 inches in size, allowing one-half

inch for border, by a registered land surveyor in accordance with the requirements of the public works director surveying standards and shall contain the following information:

1. All documents, maps, and survey notes shall contain the name of the subdivision or be clearly referenced to it, and shall contain the name and address of the subdivider and his surveyors or engineer, or be clearly referenced to it.

2. The legal description of the plat and the following information shall appear in the following sequences on the final plat, lettered in ink either by hand or mechanical device:

Know all men by these presents that _____, the undersigned owner(s) in fee simple, and encumbrances of the land hereby platted, hereby declare this plat and dedicate(s) to the use of the public forever, all streets and easements or whatever public property there is shown on the plat and the use thereof for any and all public purposes; also, the right to make all necessary slopes for cuts or fills upon the lots, blocks, tracts, etc., shown on this plat in the reasonable original grading of all streets, shown hereon.

Signed & Sealed _____

State of Washington)
)ss
County of Snohomish)

This is to Certify that on this ___ day of _____, 20____, before me the undersigned, a Notary Public, personally appeared _____ to me known to the person(s) who executed the foregoing dedication and acknowledged to me that _____ signed and sealed the same as _____ free and voluntary act and deed for the uses and purposes mentioned.

Witness my hand and official seal the day and year last above written.

Notary Public in and for the State of Washington, residing at _____

Commission expires _____

I hereby certify that the plat of _____ is based on actual survey and subdivision of Section _____, Township _____, North, Range _____ E.W.M., that the distances and courses and angles are shown thereon correctly, that proper monuments have been set and lot block corners staked on the ground.

Signed _____ (Seal)
Licensed Land Surveyor

Examined & Approved this ____ day of _____, A.D., 20____.

Mayor, City of Lynnwood

Examined & Approved this ____ day of _____, A.D., 20____.

Community Development Director

Examined & Approved this ____ day of _____, A.D., 20____.

Public Works Director

Attest:

Administrative Services Director

Filed for record at the request of the city of Lynnwood this ____ day of _____, A.D., 20____, at _____ minutes past _____ o'clock, __.M., and recorded in Volume _____ of Plats, on Page _____, records of Snohomish County, Washington.

Snohomish County Auditor

Deputy County Auditor

I, _____, Treasurer of Snohomish County, Washington, do hereby certify that all taxes on the above described tract have been fully paid up to and including the year of 20____.

Snohomish County Treasurer

3. The boundary lines with accurate distances and bearings, location, and width of all existing previously recorded public highways approaching and intersecting the boundaries of the subdivision shall be shown on the map and referenced to the United States Coast and Geodetic Survey datum or the plain coordinate system for the state of Washington, and/or acceptable data prescribed by the public works director.

4. The map shall accurately show the boundary lines of all parks and playgrounds and the rights-of-way of all public streets contained in the plat, subdivision, or dedication, and shall contain thereon, suitably inscribed, and described, a statement of dedication of these rights-of-way, playgrounds, parks, and other necessary areas.

5. The final plat shall clearly show the following information:

- a. The lines and names of all streets or other public ways, parks, playgrounds, tracts and easements intended to be dedicated for public use, or granted for use of inhabitants of the subdivision;
- b. The lines and names of all existing or platted streets or other public ways, parks, playgrounds, and easements adjacent to the final plat, subdivision or dedication, including municipal boundaries, township lines, and section lines;
- c. The lengths and bearings of all straight lines, curve radii, arcs and semi-tangents of all curves;
- d. All dimensions along the lines of each lot, with the true bearings plus any other data necessary for the location of any lot lines or corners in the field;
- e. Suitable primary control points, approved by the public works director or descriptions and ties to such control points, to which all dimensions, angles, bearings and similar data given on the plat shall be referred;
- f. The name of all subdivisions immediately adjacent thereof;
- g. The date, true north point, scale and date of survey;
- h. The boundary of the tract, with courses and distances marked thereon, as determined by a field survey made by a registered land surveyor of the state of Washington and to close with an error of not more than one foot in 5,000; and
- i. Storm water system maintenance requirements as approved by the public works director.

6. The subdivider shall submit complete field and computation notes showing original or re-established corners, with description of the same; showing true bearings and distances to established street lines and monuments, turning angles, points of curvature, length of tangents, and the actual traverse showing error of enclosure and method of balancing with sketches showing all distances, angles and calculations required to determine corners and distances of the plat, subdivision, or dedication.

The final plat as submitted to the city council shall contain a certificate from the county treasurer indicating that all taxes on said property included in the proposed plat, subdivision, or dedication, have been paid and a certificate from the county assessor and city treasurer indicating that all assessments on this property have been paid in accordance with Chapter 200, Section 1, Laws, 1909, as hereafter amended (RCW 58.08.040) and Chapter 188, Section 1, Laws, 1927, as hereafter amended (RCW 58.08.030).

Section 25. LMC 19.45.005 is amended to read as follows:

19.45.005 Plat variance procedure.

It is recognized that in some cases pertaining to particular plats, circumstances may justify the granting of plat variances from the standards of this title. Applications for plat variances shall be coordinated with preliminary plat review. Petitioners for plat variances shall describe fully the variance sought and the grounds for the application, and shall bear the burden of proof that approval of such application conforms to the criteria of LMC 19.45.010. The community development director shall develop separate recommendations on plat variance applications and forward them to the hearing examiner along with the recommendation on the preliminary plat. The director's recommendation and the hearing examiner's action may be for a lesser degree of variation from a standard than sought by the applicant, and may include conditions. The hearing examiner shall have sole authority to approve plat variances from the standards of this title.

Section 26. REPEALER. LMC 21.22.350 is repealed.

~~**21.22.350 Signatures on petition for change of zone classification.**~~

~~A property owner desiring a change in the zone classification or in the boundaries of the zone shall submit a petition carrying the signatures of not less than 51 percent of the owners of property within 300 feet of the property under consideration; provided, that:~~

~~A. Either spouse may sign as owner, and any partner of a partnership or any officer or agent of a corporation may sign as owner; provided, that if two or more persons sign for one ownership it shall count as one ownership;~~

~~B. Each ownership shall be counted only once, regardless of its size or value;~~

~~C. An ownership shall be counted only once, regardless of the number of parcels under identical ownership within the 300-foot limit and regardless of whether or not all such identical ownerships are contiguous or noncontiguous;~~

~~D. Any parcel, any part of which is within the 300 foot limit, shall be counted;~~
~~E. The signature shall indicate knowledge of, and not endorsement of, the proposed change. Upon refusal by an owner to sign, the applicant may submit an affidavit to the effect that the party was contacted but refused to sign.~~

Section 27. LMC 21.22.400 is amended as follows:

21.22.400 Applicable procedure.

The city shall process an application for a reclassification of property as follows;

A. Site-specific or area-wide reclassification, processed concurrently with an application to amend the Comprehensive Plan Future Land Use Map designation for the same property: Process IV (decision by city council following public hearings by planning commission and city council). In instances where two public hearings for a land use permit may conflict with the provisions of RCW 36.70B.050, a single public hearing on the reclassification will be conducted by the city council.

B. Site-specific or area-wide reclassification, processed concurrently with adoption of a subarea plan: Process IV (decision by city council following public hearings by planning commission and city council). In instances where two public hearings for a land use permit may conflict with the provisions of RCW 36.70B.050, a single public hearing on the reclassification will be conducted by the city council.

C. Area-wide reclassification: Process IV (decision by city council following public hearings by planning commission and city council).

D. Site-specific reclassification: Process I (decision by hearing examiner following public hearing).

Section 28. LMC 21.30.300 is amended as follows:

21.30.300 Procedure for approval of planned unit development projects.

The city will process an application for a preliminary planned unit development through Process I (LMC 1.35.100 through 1.35.180). Before approval of any plan, the hearing examiner shall determine that such plans comply with the development policies of the comprehensive plan, the purpose of this title, and provisions of this chapter. Such approval or preliminary approval shall be binding as to the general intent and apportionment of land for buildings, stipulated use and circulation

pattern, but shall not be construed to render inflexible the ultimate design, specific uses or final plan of the project.

All commercial, industrial, and multiple-family planned unit developments (PUDs) and PUDs within nonresidential development shall comply with applicable Lynnwood City Design Guidelines and receive project design review approval pursuant to Chapter 21.25 LMC prior to approval of the PUD.

Section 29. LMC 21.30.320 is amended as follows:

21.30.320 Final development plan.

A. Where preliminary PUD approval is granted, the petitioner shall within one year of the date of the preliminary approval submit a final development plan for approval pursuant to Process I. In the event no final development plan is submitted within one year of the date of preliminary approval, the application shall expire.

B. The approved plan will constitute a limitation on use and design of the site. Permitted land uses and design shall be substantively similar to those identified in the written decision.

Section 30. NOMENCLATURE. All references within the Lynnwood Municipal Code to the “planning department” and “department of planning” are amended to read “community development department”.

Section 31. NOMENCLATURE. All references within the Lynnwood Municipal Code to the “planning director”, “director of planning” and “city planner” are amended to read “community development director”.

Section 32. CODIFICATION. LMC 1.35.800 shall be re-codified as LMC 1.35.090.


Section 33. CODIFICATION. LMC 1.35.810 shall be re-codified as LMC 1.35.095.

Section 34. 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 of this Ordinance.

Section 35. This Ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

PASSED BY THE CITY COUNCIL, this 10th day of September, 2012 and signed in authentication of its passage this this 20th day of September.

APPROVED:



DON GOUGH, MAYOR

ATTEST/AUTHENTICATED:



LORENZO HINES, FINANCE DIRECTOR, CITY CLERK

APPROVED AS TO FORM:



ROSEMARY LARSON, CITY ATTORNEY

FILED WITH ADMINISTRATIVE SERVICES:	09/19/12
PASSED BY THE CITY COUNCIL:	09/10/12
PUBLISHED:	09/24/12
EFFECTIVE DATE:	09/29/12
ORDINANCE NUMBER:	2957



On the 10th day of September, 2012, the City Council of the City of Lynnwood, Washington, passed Ordinance No. 2957. A summary of the content of said ordinance, consisting of the title, provides as follows:

ORDINANCE 2957

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, RELATING TO PERMIT PROCESSING AND PERMIT DECISION AUTHORITY; AMENDING LYNNWOOD MUNICIPAL CODE SECTIONS 1.35.004, 1.35.100, 1.35.115, 1.35.160, 1.35.175, 1.35.180, 1.35.400, 1.35.415, 1.35.460, 2.22.090, 2.22.100, 17.02.195, 17.10.120, 19.15.007, 19.15.010, 19. 20.022, 19.20.025, 19.20.035, 19.20.040, 19.20.045 19.25.005, 19.45.005, 21.22.400, 21.30.300 AND 21.30.320; REPEALING LYNNWOOD MUNICIPAL CODE SECTIONS 1.35.434, 1.35.450, 19.20.030, and 21.22.350; RECODIFYING SECTIONS 1.35.800 AND 1.35.810; STANDARDIZING REFERENCES TO THE COMMUNITY DEVELOPMENT DEPARTMENT AND COMMUNITY DEVELOPMENT DIRECTOR; AND PROVIDING FOR AN EFFECTIVE DATE, SEVERABILITY, AND SUMMARY PUBLICATION.

For the cost of copying, a full copy of any ordinance may be obtained by contacting the City Clerk's Office at 425.670.5161. Alternatively, they may be viewed online at www.ci.lynnwood.wa.us

DATED this 24th day of September, 2012




Lorenzo Hines, Finance Director

CERTIFICATE

I, the undersigned, Lorenzo Hines Jr., the duly appointed City Clerk of the City of Lynnwood, Washington, hereby certify that the Ordinance hereto attached is a full, true and correct copy of Ordinance No. 2957 of the City of Lynnwood, Washington, entitled as follows:

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, RELATING TO PERMIT PROCESSING AND PERMIT DECISION AUTHORITY; AMENDING LYNNWOOD MUNICIPAL CODE SECTIONS 1.35.004, 1.35.100, 1.35.115, 1.35.160, 1.35.175, 1.35.180, 1.35.400, 1.35.415, 1.35.460, 2.22.090, 2.22.100, 17.02.195, 17.10.120, 19.15.007, 19.15.010, 19. 20.022, 19.20.025, 19.20.035, 19.20.040, 19.20.045 19.25.005, 19.45.005, 21.22.400, 21.30.300 AND 21.30.320; REPEALING LYNNWOOD MUNICIPAL CODE SECTIONS 1.35.434, 1.35.450, 19.20.030, and 21.22.350; RECODIFYING SECTIONS 1.35.800 AND 1.35.810; STANDARDIZING REFERENCES TO THE COMMUNITY DEVELOPMENT DEPARTMENT AND COMMUNITY DEVELOPMENT DIRECTOR; AND PROVIDING FOR AN EFFECTIVE DATE, SEVERABILITY, AND SUMMARY PUBLICATION.

That said ordinance was passed by the Council of said City and was published and posted according to law; that said ordinance was duly published in the official newspaper of said City on 24th day of September, 2012.



City Clerk of the City of Lynnwood,
Washington