

CITY OF LYNNWOOD

ORDINANCE NO. 860

AN ORDINANCE ADOPTING STATE ENVIRONMENTAL POLICY ACT GUIDELINES AS ESTABLISHED BY THE WASHINGTON ADMINISTRATIVE CODE, PROVIDING FOR PROCEDURES FOR ENFORCEMENT THEREOF AND FOR FEES AND INCIDENTAL REGULATIONS FOR THE IMPLEMENTATION OF THIS ORDINANCE.

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

Section 1. (WAC 173-805-010) POLICIES AND AUTHORITY. The City of Lynnwood hereby adopts by reference the policies of the State Environmental Policy Act as expressed in RCW 43.21C.010 and RCW 43.21C.020; hereinafter to be referred to as SEPA.

Section 2. The City of Lynnwood shall possess the authority to deny or condition actions so as to mitigate or prevent adverse environmental impacts.

Section 3. (WAC 17-805-020) ADOPTION BY REFERENCE. The city hereby adopts by reference the following sections or subsections of Chapter 197-10 of the Washington Administrative Code (the "SEPA Guidelines" adopted by the State of Washington council on environmental policy):

- WAC 197-10-040: Definitions.
- 060: Scope of a Proposal and its Impacts.
- 160: No Presumption of Significance for Non-Exempt Actions.
- 170: Categorical Exemptions.
- 175: Exemptions and Non-Exemptions Applicable to Specific State Agencies.
- 180: Exemptions for Emergency Actions.
- 200: Lead Agency--Responsibilities.
- 203: Determination of Lead Agency--Procedures.
- 205: Lead Agency Designation--Governmental Proposals.
- 210: Lead Agency Designation--Proposals involving Both Private and Public Construction.
- 215: Lead Agency Designation--Private Projects for Which There is Only One Agency.
- 220: Lead Agency Designation--Private Projects, Licenses from More than One Agency When One is City.
- 225: Lead Agency Designation--Private Projects, License from More Than One State Agency.
- 230: Lead Agency Designation--Specific Proposals.
- 235: Local Agency Transfer of Lead Agency Status to a State Agency.
- 240: Agreements as to Lead Agency Status.
- 245: Agreements Between Agencies as to Division of Lead Agency Duties.
- 260: Dispute as to Lead Agency Determination--Resolution to CEP.

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- 270: Assumption of Lead Agency by Another Agency with Jurisdiction.
- 300: Threshold Determination Requirement.
- 305: Recommended Timing for Threshold Determination.
- 310: Threshold Determination Procedures-- Environmental Checklist.
- 320: Threshold Determination Procedures-- Initial Review of Environmental Checklist.
- 330: Threshold Determination Procedures-- Information in Addition to Checklist.
- 340: Threshold Determination Procedures-- Negative Declarations.
- 345: Assumption of Lead Agency Status by Another Agency with Jurisdiction--Prerequisites, Effect and Form of Notice.
- 350: Affirmative Threshold Determinations.
- 355: Form of Declaration of Significance/Non-Significance.
- 360: Threshold Determination Criteria--Application of Environmental Checklist.
- 365: Environmental Checklist.
- 370: Withdrawal of Affirmative Threshold Determination.
- 375: Withdrawal of Negative Threshold Determination.
- 390: Effect of Threshold Determination by Lead Agency.
- 400: Duty to Begin Preparation of Draft EIS.
- 410: Pre-Draft Consultation Procedures.
- 425: Organization and Style of a Draft EIS.
- 440: Contents of a Draft EIS.
- 442: Special Considerations Regarding Contents of an EIS.
- 444: List of Elements of the Environment.
- 450: Public Awareness of Availability of Draft EIS.
- 455: Circulation of the Draft EIS--Review Period.
- 460: Specific Agencies to which Draft EIS shall be sent.
- 465: Agencies possessing Environmental Expertise.
- 470: Costs to the Public for Reproduction of Environmental Documents.
- 480: Public Hearing on a Proposal--When Required.
- 485: Notice of Public Hearing on Environmental Impact of the Proposal.
- 490: Public Hearing on the Proposal--Use of Environmental Document.
- 495: Preparation of Amended or New Draft EIS.
- 500: Responsibilities of Consulted Agencies-- Local Agencies.
- 510: Responsibilities of Consulted Agencies-- State Agencies with Jurisdiction.

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- 520: Responsibilities of Consulted Agencies--
State Agencies with Environmental Expertise.
- 530: Responsibilities of Consulted Agencies--
When Pre-Draft Consultation has Occurred.
- 535: Cost of Performance of Consulted Agency
Responsibilities.
- 540: Limitations on Responses to Consultation.
- 545: Effect of No Written Comment.
- 550: Preparation of the Final EIS--Time Period
Allowed.
- 570: Preparation of Final EIS--When no Critical
Comments received on the Draft EIS.
- 580: Preparation of the Final EIS--Contents--
When Critical Comments Received on Draft
EIS.
- 600: Circulation of the Final EIS.
- 650: Effect of an Adequate Final EIS Prepared
Pursuant to NEPA.
- 652: Supplementation by a Lead Agency of an
Inadequate Final NEPA EIS.
- 660: Use of Previously Prepared EIS for a Dif-
ferent Proposed Action.
- 690: Use of a Lead Agency's EIS by Other Acting
Agencies for the Same Proposal.
- 695: Draft and Final Supplements to a Revised
EIS.
- 700: No action for Seven Days After Publication
of the Final EIS.
- 710: EIS Combined with Existing Planning and
Review Processes.
- 830: Responsibilities of Agencies--SEPA Public
Information Center.
- 835: Regional SEPA Public Information Centers.
- 840: Application of Agency Guidelines to On-
going Actions.

Section 4. (WAC 173-805-030) ADDITIONAL DEFINITIONS. In addition to those definitions contained within WAC 197-10-040, the following terms shall have the following meanings, unless the context indicates otherwise:

- (1) "Department" means any division, subdivision or organizational unit of the city established by ordinance, rule or order.
- (2) "SEPA Guidelines" means chapter 197-10 WAC adopted by the council on environmental policy.

Section 5. (WAC 173-805-040) TIME LIMITS APPLICABLE TO THE SEPA PROCESS. The following time limits (expressed in calendar days) shall apply to the processing of all private projects and to those governmental proposals submitted to this city by other agencies.

(1) Categorical Exemptions. Identification of categorically exempt actions shall occur within twenty-one (21) days of submission of an adequate application;

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(2) Threshold Determinations:

(a) Threshold determinations which can be made based upon review of the environmental checklist submitted by applicant should be completed within thirty (30) days of submission of an adequate application and the completed checklist.

(b) Threshold determinations requiring further information from the applicant or consultation with other agencies with jurisdiction should be completed within thirty (30) days of receiving the requested information from the applicant or the consulted agency; requests by the city for such further information should be made within thirty (30) days of the submission of an adequate application and completed checklist; when a request for further information is submitted to a consulted agency, the city may wait a maximum of thirty (30) days for the consulted agency to respond.

(c) Threshold determinations which require that further studies, including field investigations, be initiated by the city should be completed within thirty (30) days of submission of an adequate application and the completed checklist.

(d) Threshold determinations on actions where the applicant recommends in writing that an EIS be prepared because of the significant impact asserted and described in the application shall be completed within thirty (30) days of submission of an adequate application and the completed checklist.

(e) The time limits set forth in this subsection shall not apply to withdrawals of affirmative and negative threshold determinations where such withdrawals are made in accordance with section WAC 197-10-370 and WAC 197-10-375.

(f) When a threshold determination is expected to require more than thirty (30) days to complete and a private applicant requests notification of the date when a threshold determination will be made, the lead agency shall transmit to the private applicant a written statement as to the expected date of decision.

Section 6. (WAC 173-805-050) ENVIRONMENTALLY SENSITIVE AREAS. (1) The map(s) attached hereto as Exhibit A and adopted by reference hereto designate the location of environmentally sensitive areas within the city. For each sensitive area, exemptions within WAC 197-10-170 of the SEPA guidelines are inapplicable to that area.

(2) Major actions which will be located wholly or partially within an environmentally sensitive area are to be treated no differently than other major actions under these guidelines. A Threshold determination shall be made for all such actions, and an EIS shall not be automatically required for a proposal merely because it is proposed for location in an environmentally sensitive area.

(3) Certain exemptions do not apply on lands covered by

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water, and this remains true regardless of whether or not lands covered by water are mapped.

Section 7. (WAC 173-805-060) USE OF EXEMPTIONS. (1) The applicability of the exemptions shall be determined by each department within the city which received an application for a license, or in the case of governmental proposals, by that department initiating the proposal. A determination by any such department that a proposal is exempt shall be final and not subject to administrative review.

(2) If a proposal includes a series of actions, physically or functionally related to each other, some of which are exempt and some of which are not, the proposal is not exempt.

(3) If the proposal includes a series of exempt actions which are physically or functionally related to each other, but which together may have a significant environmental impact, the proposal is not exempt.

(4) If it is determined that a proposal is exempt, none of the procedural requirements of these guidelines apply to the proposal. No environmental checklist shall be required for an exempt proposal.

(5) A department which is determining whether or not a proposal is exempt shall ascertain the total scope of the proposal and the governmental licenses required. If a proposal includes a series of actions, physically or functionally related to each other, some of which are exempt and some of which are not, the proposal is not exempt.

(6) If a proposal includes both exempt and nonexempt actions, exempt actions may be authorized with respect to the proposal prior to compliance with the procedural requirements of these guidelines subject to the following limitations:

- (a) No major action (nonexempt action) shall be authorized;
- (b) No action shall be authorized which will irrevocably commit the city to approve or authorize a major action;
- (c) A department may withhold approval of an exempt action which would lead to modification of the physical environment, when such modifications would serve no purpose if later approval of a major action is not secured; and
- (d) A department may withhold approval of exempt actions which would lead to substantial financial expenditures by a private applicant which would serve no purpose if later approval of a major action is not secured.

Section 8. (WAC 173-805-090) ENVIRONMENTAL CHECKLIST.

(1) Except as provided in WAC 197-10-300(2), a completed environmental checklist, or a copy thereof, substantially in the form provided in WAC 197-10-365 shall be filed at the same time as an application for a permit, license, certificate, or other entitlement for use not specifically exempted herein. This checklist shall be the basis for a determination by the city as to lead agency status and if the city is determined to be the lead agency, then for the threshold determination.

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(2) For all proposals for which the city is the lead agency, the responsible official of the city shall make the threshold determination pursuant to the criteria and procedures of WAC 197-10-300 through -365.

Section 9. (WAC 173-805-100) PREPARATION OF EIS.

(1) The responsible official shall determine whether the draft and final EIS shall be prepared either by the responsible official or his designee, or by a private applicant or a consultant retained by the private applicant. In the event the responsible official determines that the applicant will be required to prepare an EIS, the applicant shall be so notified immediately after completion of the threshold determination.

(2) In the event that an EIS is to be prepared by a private applicant or a consultant retained by the private applicant, the responsible official shall assure that the EIS is prepared in a responsible manner and with appropriate methodology. The responsible official shall direct the areas of research and examination to be undertaken, as well as the organization of the resulting document.

(3) In the event that the responsible official or his designee is preparing an EIS, the responsible official may require a private applicant to provide data and information which is not in the possession of the city relevant to any or all areas to be covered by the EIS.

(4) No matter who participates in the preparation of an EIS, it must be approved by the responsible official prior to distribution.

(5) In all occasions of EIS preparation the applicant is encouraged to provide information to the responsible official.

Section 10. (WAC 173-805-105) ADDITIONAL ELEMENTS TO BE COVERED IN AN EIS. The following additional elements are part of the environment for the purpose of EIS content, but do not add to the criteria for threshold determinations or perform any other function or purpose under these rules:

- (1) Economy.
- (2) Cultural factors.
- (3) Sociological factors.

(This section is completely optional. If used, the listed elements may be selected, or you may add your own.

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Section 11. (WAC 173-805-110) DESIGNATION OF OFFICIAL TO PERFORM CONSULTED AGENCY RESPONSIBILITIES FOR THE CITY.

(1) The following (person) (department) (office) shall be responsible for the preparation of the written comments for the city in response to a consultation request prior to a threshold determination, participation in predraft consultation, or reviewing a draft EIS: The Mayor or his designee.

(2) The official designated in paragraph (1) hereof shall be responsible for compliance by the city with WAC 197-10-500, through -540 wherever the city is a consulted agency, and is hereby authorized to develop operating procedures which will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the city.

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Section 12. (WAC 173-805-115) DESIGNATION OF RESPONSIBLE OFFICIAL.

(1) For those proposals for which the city is the lead agency, the responsible official shall be the Mayor and/or an Environmental Review Committee as appointed by the Mayor.

(2) The responsible official shall make the threshold determination, supervise preparation of any required EIS, and perform any other functions assigned to the "lead agency" or "responsible official" by those sections of the SEPA guidelines which were adopted by reference in WAC 173-805-020 hereof, for all proposals for which the city is the lead agency.

Section 13. (WAC 173-805-120) SEPA PUBLIC INFORMATION CENTER.

(1) The following location constitutes the city's SEPA public information center:

Lynnwood City Hall
19100 - 44th Avenue West
Lynnwood, Washington
Telephone: 775-1971

Section 14. (WAC 173-805-130) FEES. The following fees shall be required for actions by the city in accordance with the provisions of this ordinance:

(1) Threshold Determination--For every environmental assessment required by this ordinance a fee of Thirty-five Dollars (\$35.00) shall be paid to the city by the proponent of the proposal. This fee shall be paid prior to undertaking the threshold determination, and the time periods provided by this ordinance for making a threshold determination shall not begin to run until payment of the fee; provided this fee shall not apply to building permits.

(2) Environmental Impact Statements--

(a) For all proposals requiring an EIS the proponent shall file a cash bond with the city in the amount of Two Hundred and Fifty Dollars (\$250.00); the city shall keep an accurate record of all expenses for materials, labor and professional fees and charge those expenses against the cash bond. At such time as the bond shall be exhausted the city shall inform the proponents that work (or supervision of work) will cease until an additional cash bond of Two Hundred and Fifty Dollars (\$250.00) is deposited with the city. Any sums not used for the purposes of this ordinance shall be refunded to the proponent.

(b) The responsible official may also determine that the city will contract directly with a consultant for preparation of environmental documents for activities initiated by some persons or entity other than the city and may bill such costs and expenses directly to the applicant. Such consultants shall be selected by mutual agreement of the city and applicant after a call for proposals. Applicants may be required to post bond or otherwise insure payment of such costs.

(c) In the event that a proposal is modified so that an EIS is no longer required, the responsible official shall refund any costs collected under (a) and (b) of this subsection which

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were collected for costs not incurred.

(3) No fee shall be collected by the city for performing its duties as consulted agency.

(4) The SEPA public information center of the city is hereby authorized to charge periodic fees for the service of mailing registers and register updates. Such fees shall be reasonably related to the costs of reproduction and mailing of registers and updates.

(5) The city may charge any person for copies of any document prepared pursuant to the requirements of this ordinance, and for mailing thereof, in a manner provided by chapter 42.17, RCW.

Section 15. (WAC 173-805-135) NOTICE/STATUTE OF LIMITATIONS.

(1) The city, applicant for, or proponent of an action may publish notice of action pursuant to RCW 43.21C.080 for any action.

(2) The form of the notice shall be as prescribed by the department of ecology and/or substantially in the form and manner set forth in RCW 43.21C.080. This notice shall be published by the city clerk, applicant or proponent pursuant to RCW 43.21C.080.


Section 16. (WAC 173-805-140) SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance, or the application of the provision to other persons or circumstances, shall not be affected.

Section 17. This ordinance shall take effect five (5) days after its passage, approval and publication.

PASSED this 12th day of July, 1976, and signed in authentication of its passage this 12th day of July, 1976.


M. J. HRDLICKA, MAYOR

ATTEST:


R. W. NOACK, CITY CLERK

APPROVED AS TO FORM:

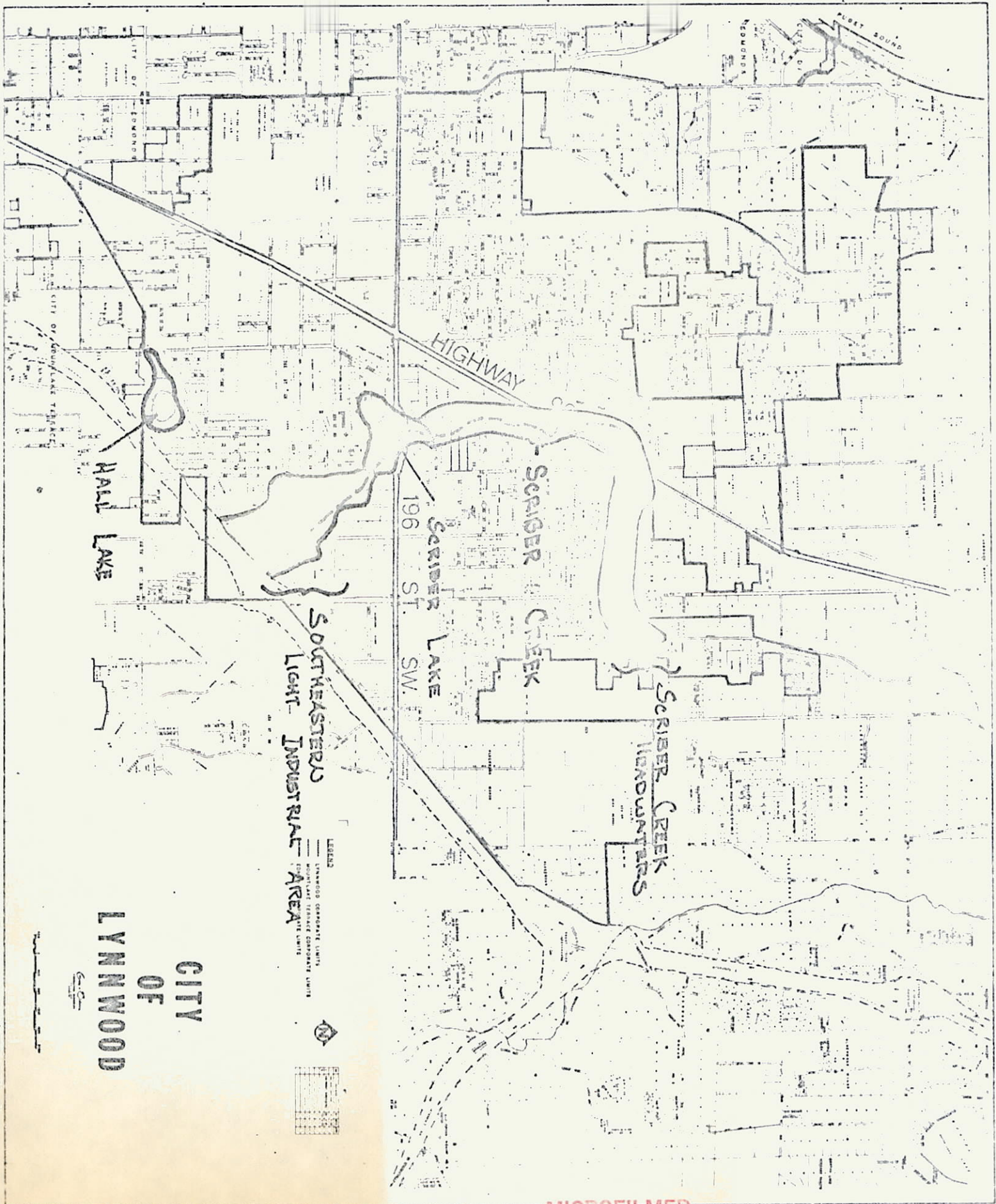

J. GAYLORD RIACH, CITY ATTORNEY

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CITY
OF
LYNNWOOD

SOUTHEASTERN
LIGHT INDUSTRIAL AREA

HIGHWAY

196 ST. SW.

SCRIBER CREEK

SCRIBER LAKE

SCRIBER CREEK
WATERSHED

HALL LAKE

LEGEND
LYNNWOOD CORPORATE LIMITS
MOUNTAIN VIEW CORPORATE LIMITS



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