

**LYNNWOOD
CITY COUNCIL
Work Session**

Date: Monday, July 20, 2020

Time: 6:00 PM

**Place: This meeting will be held electronically via
Zoom. See the City of Lynnwood website for
details.**

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- | | | |
|---------|----------|---|
| 6:00 PM | A | Comments and Questions on Memo Items |
| 6:00 PM | B | COVID-19 Update |
| 6:30 PM | C | Discussion: Special Event Permitting |
| 6:50 PM | D | Ordinance Repealing Custodial Care Standards - LMC 2.37 |
| 7:00 PM | E | Break |
| 7:10 PM | F | Mayor Comments and Questions |
| 7:15 PM | G | Council President and Council Comments |
| 7:20 PM | H | Executive Session: Personnel Matter |
| | | Adjourn |

Memorandums for Future Agenda Items:

- | | |
|-----|--|
| M-1 | Contract Supplement: Scriber Creek Trail Improvements |
| M-2 | Resolution: Authorizing Grant Applications to the Recreation and Conservation Office (RCO) |
| M-3 | Public Hearing on July 27, 2020: Interim Floodplain Development Regulations Ordinance |

Memorandums for Your Information:

- | | |
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| FYI-1 | FYI: EGGS-plore Lynnwood Auction Proceeds |
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Contact: Executive Office (425) 670-5001

CITY COUNCIL ITEM A

CITY OF LYNNWOOD Executive

TITLE: Comments and Questions on Memo Items

DEPARTMENT CONTACT: Leah Jensen

DOCUMENT ATTACHMENTS

Description:

Type:

No Attachments Available

CITY COUNCIL ITEM B

CITY OF LYNNWOOD City Council

TITLE: COVID-19 Update

DEPARTMENT CONTACT: Christine Frizzell, Council President

SUMMARY:

The City continues to monitor and respond to the COVID-19 emergency. The Council will receive an update from City staff.

DOCUMENT ATTACHMENTS

Description:

Type:

No Attachments Available

CITY COUNCIL ITEM C

CITY OF LYNNWOOD

Parks, Recreation, & Cultural Arts

TITLE: Discussion: Special Event Permitting

DEPARTMENT CONTACT: Sarah Olson, Misty Burke, Robert Mathias

SUMMARY:

The purpose of this agenda item is to discuss a staff proposal to update regulations for special events. The City's Special Event Code is codified as Chapter 5.30 LMC.

POLICY QUESTION(S) FOR COUNCIL CONSIDERATION:

Does the Council support staff recommendations to amend the permit process to provide for variation of event permit process, review times, and fee structures for different types of events which will require an update to the special event code?

ACTION:

This is for discussion only. If changes are proposed, it will require a public hearing and adoption of an ordinance to update 5.30 LMC.

BACKGROUND:

City staff has identified the need to update all of Title 5 LMC--so that its provisions are: 1) consistent with Our Community Vision; 2) improve the customer experience; and 3) facilitate greater efficiency.

Chapter 5.30 LMC (Special Events Code) was last updated in 2015 to address the need for new regulations for event classifications, fees, banner signs, mobile food trucks and markets. However, since all events regardless of size, scope, and burden on public right-of-ways are processed the same, the code and permitting process is overly onerous for simple events and not robust enough for large community gatherings. We have mitigated this as much as possible through improved online service processes, handbook information, and navigation services provided by the Community Event & Outreach Coordinator. Despite our efforts, compliance is difficult to achieve with success.

An inter-departmental team of employees have met to review and process map the permitting process of the special event regulations and have started to identify solutions to improving review and permitting for events which will preserve public safety. The workgroup includes staff from Community Development, Economic Development, Fire, Parks, Police, and Public Works.

By nature, special events are diverse and sometimes unique. Examples of special events can include: parades; political demonstrations; large parking lot sales; carnivals; marathons; etc. Activities that occur within facilities designed for that use are not a special event. For example, a trade show at the Convention Center is not regulated as a special event, nor is a regular sporting event at a public school.

Staff would like to discuss at this briefing, the different types of events and how the permit process, time of review, and fees should be adjusted prior to bringing forward a full code amendment.

PREVIOUS COUNCIL ACTIONS:

May 26, 2020: City Council passed a motion eliminate application fees for commercial special events for the remainder of 2020.

May 26, 2015: City Council adopted Ordinance 3128 relating to special events and special event permitting.

adopting a new Chapter 5.30 and repealing Chapter 5.32 and Chapter 5.34 LMC.

<http://archive.lynnwoodwa.gov/Assets/Departments/Administrative+Services/Clerk/Ordinances/Ordinance+3128.pdf>

April 2014: The City Council approved new regulations for commercial banners. Prior to that action, banners were only permitted in conjunction with a special event permit.

FUNDING:

N/A

ADMINISTRATION RECOMMENDATION:

Support inter-departmental team to develop an ordinance to amend Chapter 5.30 LMC.

DOCUMENT ATTACHMENTS

Description:

Type:

No Attachments Available

CITY COUNCIL ITEM D

CITY OF LYNNWOOD Police Department

TITLE: Ordinance Repealing Custodial Care Standards - LMC 2.37

DEPARTMENT CONTACT: Commander Sean Doty

SUMMARY:

In review of Lynnwood Municipal Code (LMC) it was discovered that there was a chapter titled Custodial Care Standards (LMC 2.37), which includes outdated language that does not accurately reflect current policy and procedures. Since this LMC was created, statutory authority related to the operation of a jail is now incorporated in RCW. RCW 70.48.090 grants authority for policy and procedures to the Chief of Police.

After examining Chapter 2.37 in its entirety and after consultation with the City Attorney it was determined that the appropriate course of action would be to repeal the entire Chapter via ordinance.

POLICY QUESTION(S) FOR COUNCIL CONSIDERATION:

Should the Council adopt a new ordinance repealing LMC Chapter 2.37?

ACTION:

Review and discuss

BACKGROUND:

LMC Chapter 2.37 was created in 1991. This type of ordinance and similar language was created across the state at that time, as there were no statewide standards in the operation of jails. By current RCW 70.48.090, that statutory authority is given to the Chief of Police for the jurisdiction that has a municipal jail, to establish operational policy and procedure standards.

The Lynnwood Police Department has a Lynnwood Jail policy manual that has been approved by the Chief of Police. Therefore, this outdated LMC is no longer required nor followed as there are outdated practices in that LMC.

PREVIOUS COUNCIL ACTIONS:

Approved LMC 2.37, which appears to have occurred in 1991.

FUNDING:

None

KEY FEATURES AND VISION ALIGNMENT:

Removes an outdated LMC that conflicts with current policy and procedures.

ADMINISTRATION RECOMMENDATION:

Review, Discuss and Approve Ordinance

DOCUMENT ATTACHMENTS

Description:

|Type:

<u>Proposed Ordinance</u>	Backup Material
<u>Chapter 2.37 - Existing LMC to be Repealed</u>	Backup Material
<u>LMC 2.36.110 - For Reference</u>	Backup Material

1 CITY OF LYNNWOOD

2 ORDINANCE NO. ____

3 AN ORDINANCE OF THE CITY OF LYNNWOOD,
4 WASHINGTON, RELATING TO CUSTODIAL CARE
5 STANDARDS, REPEALING CHAPTER 2.37 LMC; AND
6 PROVIDING FOR AN EFFECTIVE DATE, SEVERABILITY
7 AND SUMMARY PUBLICATION

8 WHEREAS, Chapter 2.37 of the Lynnwood Municipal Code (LMC) currently contains
9 outdated language relating to the custodial care of persons confined in the Lynnwood Municipal
10 Jail; and

11 WHEREAS, the custodial care standards specified by Chapter 2.37 LMC are not consistent
12 with current industry best practices and/or standards; and

13 WHEREAS, RCW 70.48.090 provides statutory authority to the Chief of Police to have
14 charge of the Lynnwood Municipal Jail and of all persons confined therein; and

15 WHEREAS, City Council has delegated authority to the Chief of Police under LMC
16 2.36.110 to promulgate policies and standards consistent with the laws of the United States, the
17 state of Washington, and the City of Lynnwood, as deemed necessary for the efficient and safe
18 operation of the jail, the protection of inmates and staff, and to provide for the public's health,
19 safety, and welfare; and

20 WHEREAS, current policies and procedures governing the care of persons confined in the
21 Lynnwood Municipal Jail are promulgated by the Chief of Police in the Lynnwood Jail Policies
22 and Procedures Manual; and

23 WHEREAS, the City Council has determined that it is in the best interests of the public's
24 health, safety and general welfare to repeal Chapter 2.37;

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

27 Section 1: Purpose. Chapter 2.37 "Custodial Care Standards" of the Lynnwood Municipal Code
28 is repealed in its entirety.

29 Section 2: Effective Date. The provisions of this ordinance shall be effective five days following
30 publication.

31 Section 3: Severability. If any section, subsection, sentence, clause, phrase or word of this
32 ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction,
33 such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any
34 other section, subsection, sentence, clause, phrase or word of this ordinance.

35 Section 4: Summary Publication. Publication of this ordinance shall be by summary publication
36 consisting of the ordinance title.

37 PASSED this ____ day of July 2020, and signed in authentication of its passage this ____
38 day of July, 2020.

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APPROVED:

Nicola Smith, MAYOR

ATTEST/AUTHENTICATED:

Karen Fitzthum
Acting City Clerk

APPROVED AS TO FORM:

Rosemary Larson
City Attorney

PASSED BY THE CITY COUNCIL: _____
PUBLISHED: _____
EFFECTIVE DATE: _____
ORDINANCE NUMBER: _____

Chapter 2.37
CUSTODIAL CARE STANDARDS

Sections:

- 2.37.010 Physical plant standards.**
- 2.37.020 Emergency suspension of custodial care standards.**
- 2.37.030 General administration.**
- 2.37.040 Training.**
- 2.37.050 Records.**
- 2.37.060 Emergency procedures.**
- 2.37.070 Fire prevention/suppression.**
- 2.37.080 Overcrowding.**
- 2.37.090 Use of force.**
- 2.37.100 Admissions.**
- 2.37.110 Preclassification procedures.**
- 2.37.120 Orientation.**
- 2.37.130 Classification and segregation.**
- 2.37.140 Good time.**
- 2.37.150 Release and transfer.**
- 2.37.160 Transportation.**
- 2.37.170 Staffing.**
- 2.37.180 Supervision and surveillance.**
- 2.37.190 Critical articles.**
- 2.37.200 Rules of conduct.**
- 2.37.210 Discipline.**
- 2.37.220 Grievance procedures.**
- 2.37.230 Written procedures for medical services.**
- 2.37.240 Health care policies.**
- 2.37.250 Health screening.**
- 2.37.260 Access to health care.**
- 2.37.270 Health care training.**
- 2.37.280 Medications control.**
- 2.37.290 Health care records.**
- 2.37.300 Special medical issues.**
- 2.37.310 Access to facilities.**
- 2.37.340 Sanitation.**
- 2.37.350 Programs.**
- 2.37.360 Telephone usage.**
- 2.37.370 Mail.**
- 2.37.380 Visitation.**

2.37.010 Physical plant standards.

Holding facilities shall be secure. Such facilities shall have adequate lighting, heat, ventilation and fire detection and suppression equipment. Each holding facility cell shall be equipped with a bed, toilet, lavatory and drinking fountain. A telephone shall be accessible. (Ord. 1824 § 1, 1991)

2.37.020 Emergency suspension of custodial care standards.

Nothing in these standards shall be construed to deny the power of the chief of police or such person's designee to temporarily suspend any standard herein prescribed in the event of any emergency which threatens the safety or security of any jail, prisoners, staff or the public. Only such standards as are directly affected by the emergency may be suspended; provided, that suspension of standards relating to overcrowding is subject to the additional requirements of LMC 2.37.080. (Ord. 1824 § 1, 1991)

2.37.030 General administration.

There shall be written policies and procedures which shall be made available to each authorized person who is responsible for the confinement of a prisoner in the facility. (Ord. 1824 § 1, 1991)

2.37.040 Training.

A. All authorized persons responsible for the confinement of a prisoner shall receive an orientation to the policies and procedures of the facility relative to their duties. On-the-job training shall be provided as deemed appropriate by the chief of police or such person's designee.

B. All jail staff whose primary responsibility is the supervision of prisoners shall successfully complete the Washington State Criminal Justice Training Commission basic correctional academy within six months of their employment unless training has already been received. (Ord. 1824 § 1, 1991)

2.37.050 Records.

A. Confidentiality. All holding facility personnel shall be advised of the statutory provisions for confidentiality of jail records under RCW 70.48.100(2).

B. Individual Prisoner Records. An individual file or record shall be kept for each prisoner.

C. If formal booking occurs in the facility, the information shall be recorded on a booking form.

D. Medical. Any prisoner medical information other than that included in the prisoner's individual file under subsection (B) of this section shall be maintained separately to the extent necessary to maintain confidentiality.

E. Any medical problems experienced by a prisoner while in the facility shall be recorded and such records maintained. Information concerning medical problems shall be transmitted at the time the prisoner is transported to another jail, hospital or other facility.

F. Prisoner Population Accounting. Each holding facility shall keep a jail register as required by RCW 70.48.100.

G. Infraction and Disciplinary. Written records shall be maintained for all incidents which result in major property damage or bodily harm.

H. Activity Log. A log of daily activity shall be kept within the facility.

I. Personnel. Performance and training records should be maintained for each staff member employed by the facility. (Ord. 1824 § 1, 1991)

2.37.060 Emergency procedures.

A. The chief of police or such person's designee shall establish and maintain written emergency procedures as appropriate for the specific facility.

B. The emergency plan shall outline the responsibilities of jail facility staff, evacuation procedures and subsequent disposition of the prisoners after removal from the area or facility.

C. Emergency plans shall always be available to the authorized person in charge of the jail.

D. All personnel should be trained in the emergency procedures. (Ord. 1824 § 1, 1991)

2.37.070 Fire prevention/suppression.

The chief of police or such person's designee shall establish and maintain a written fire prevention, suppression and evaluation plan. Such plan shall be developed in consultation with the local fire department having jurisdiction over the facility. (Ord. 1824 § 1, 1991)

2.37.080 Overcrowding.

No prisoner shall be required to sleep on a mattress on the floor in excess of 72 hours, or directly on the floor for any period of time, unless there are reasonable grounds to believe that such provisions are necessary to prevent the prisoner from damaging property, inflicting bodily harm to himself or others, or substantially compromising the security of the jail. (Ord. 1824 § 1, 1991)

2.37.090 Use of force.

A. The chief of police or such person's designee shall establish and maintain written policies and procedures regarding the use of force and the use of deadly force, which shall be consistent with this section.

B. Only lawful and reasonable force to the person of a prisoner shall be used.

C. Deadly force shall not be used on a prisoner unless the person applying the deadly force reasonably believes that the prisoner poses an immediate threat of death or grievous physical injury to an officer or employee of a jail or any other person, or to prevent the escape of a prisoner arrested for a felony, and the officer reasonably believes that other reasonable and available alternatives would be ineffective.

D. A written report on the use of force or deadly force shall be made. In the case of deadly force, a written report shall be made by each staff member involved or observing the use of such deadly force. The report shall be reviewed by the chief of police or such person's designee who shall, if appropriate, investigate the incident further and make a determination whether appropriate, justified or reasonable force was used. Said determination shall be made a matter of record.

E. The "carotid sleeper hold" means any hold or restraint specifically designed to inhibit blood flow through the carotid arteries of the neck without inhibiting breathing by compression of the airway in the neck and without compression of the larynx or trachea. The carotid sleeper hold shall be considered to be deadly force.

F. The "choke hold" means any hold or restraint specifically designed to inhibit breathing by compression of the airway in the neck. The choke hold shall be considered to be deadly force.

G. The carotid sleeper hold generally presents less danger of causing serious injury or death than the choke hold and therefore is generally preferred over the choke hold in situations where such holds are permissible.

H. No neck hold shall be used, except by persons instructed in the dangers of the neck holds, their definition as deadly force, the proper use and constraints of the carotid sleeper hold, and with specific training in the use and dangers of neck holds. Refresher training shall be provided on at least an annual basis.

I. Medical attention shall be administered to the prisoner by a qualified medical professional as soon as possible after the use of the carotid sleeper hold or the choke hold. (Ord. 1824 § 1, 1991)

2.37.100 Admissions.

A. Authorized Confinement. No prisoner shall be confined without proper legal authority.

B. Telephone. Each prisoner, within a reasonable period of time after completion of booking, shall be advised of his right to, and be allowed to complete, at least two local or collect calls to persons of his choice who may be able to come to his assistance. If the prisoner chooses not to place the calls allowed, this information shall be

noted on the booking form; provided, that appropriate protection of access to an attorney shall be maintained for prisoners without funds.

C. Language Problems. Reasonable provisions for communication with non-English speaking, handicapped and illiterate prisoners shall be provided.

D. Booking Process. The booking process shall be completed promptly unless extenuating circumstances necessitate delay.

E. Search/Examination – When Allowed. The chief of police or such person's designee shall establish and maintain written policies and procedures regarding pat searches, strip searches and body cavity searches, which shall be consistent with this section.

F. Each prisoner shall be searched for contraband in a manner consistent with this section and written policies and procedures established hereunder, as necessary to protect the safety of prisoners, staff and institutional security.

G. No strip search shall be conducted except pursuant to this chapter and the written policies and procedures authorized by subsection (E) of this section.

H. No prisoner, other than a person committed to incarceration by order of a court or a person held for post-conviction incarceration for a criminal offense, shall be strip searched without a warrant except where reasonable suspicion exists. A prisoner taken into custody pursuant to an arrest warrant or other court order issued before the person was arrested, or otherwise taken into custody shall not be considered as committed to incarceration by order of the court for purposes of this section unless the court issuing the warrant has determined that the person shall not be released on personal recognizance, bail, or bond. No strip search shall be authorized or conducted unless a thorough pat-down search, a thorough electronic metal-detector search and a thorough clothing search, when appropriate, do not satisfy the safety, security or evidentiary concerns of the jail.

I. Physical examinations by licensed medical professionals solely for public health purposes shall not be considered strip searches. A prisoner may be strip searched if:

1. There is reasonable suspicion to believe that a strip search is necessary to discover weapons, criminal evidence, contraband or other things concealed on the body of the person to be searched, that constitutes a threat to the security of the facility;
2. There is probable cause to believe that a strip search is necessary to discover other criminal evidence concealed on the body of the person to be searched, but not constituting a threat to facility security; or
3. There is reasonable suspicion to believe that a strip search is necessary to discover a health condition requiring immediate medical attention.

J. The determination of whether reasonable suspicion or probable cause exists to conduct a strip search shall be based on consideration of all information and circumstances known to the officer authorizing the strip search, including but not limited to the following factors:

1. The nature of the offense for which the person to be searched was arrested;
2. The prior criminal record of the person to be searched; and
3. Physically violent behavior of the person to be searched, during or after arrest.

K. Reasonable suspicion shall be deemed to be present when the prisoner has been arrested for:

1. A violent offense as defined in RCW 9.94A.030 or any successor statute;
2. An offense involving escape, burglary or the use of a deadly weapon; or

3. An offense involving possession of a drug or a controlled substance under Chapters 69.41, 69.50, 69.52 RCW or any successor statute.

L. A written record or records of any strip search shall be maintained in the individual file of each person strip searched, which record(s) shall contain the following information:

1. The name and serial number of the officer conducting the strip search and of all others present or observing any part of the strip search;
2. The time, date and place of the strip search; and
3. Any weapons, criminal evidence, other contraband, or other thing, or health condition discovered as a result of the strip search. Where reasonable suspicion is deemed present because of the nature of the arrest offense, the record shall contain the offense(s) for which the person searched was arrested. In other cases where reasonable suspicion or probable cause is found to be present, the report shall also contain:
 - a. The name of the supervisor authorizing the strip search; and
 - b. The specific facts constituting reasonable suspicion to believe the strip search was necessary.

M. No body cavity search shall be conducted except pursuant to a valid search warrant. No search warrant for a body cavity search shall be sought without prior authorization of the ranking shift supervisor, pursuant to the written policies and procedures required by subsection (E) of this section. Before any body cavity search is authorized or conducted, a thorough pat-down search, a thorough electronic metal-detector search, and thorough clothing search, where appropriate, must be used to search for and seize any evidence of a crime, contraband, fruits of crime, things by means of which a crime has been committed or reasonably appears about to be committed. No body cavity search shall be authorized or conducted unless these other methods do not satisfy the safety, security, or evidentiary concerns of the law enforcement agency.

N. Search Procedures – General. Strip searches and body cavity searches shall be conducted in a professional manner which protects the prisoner's dignity to the extent possible.

O. A strip search or body cavity search, as well as presearch undressing or postsearch dressing, shall occur at a location made private from the observation of persons not physically conducting the search. A strip search or body cavity search shall be performed or observed only by persons of the same sex as the person being searched, except for licensed medical professionals as required by subsection (S) of the section, as permitted by subsection (T) of this section or when necessary to assure the safety of the prisoner or any person conducting the search.

P. No person may be present or observe during a strip search or a body cavity search unless the person is necessary to conduct the search or to ensure the safety of those persons conducting the search except as provided in subsection (U) of this section.

Q. When a strip search or a body cavity search of a prisoner is conducted, it should include a thorough visual check for birthmarks, wounds, sores, cuts, bruises, scars and injuries, "health tags," and body vermin. Less complete searches should include the same checks to the extent possible.

R. Persons conducting a strip search or body cavity search shall not touch the person being searched except as reasonably necessary to effectuate the search of the person.

S. Body Cavity Searches. A body cavity search may be conducted only pursuant to subsection (M) of this section. Any body cavity search shall be performed under sanitary conditions and conducted by a physician, registered nurse, or registered physician's assistant, licensed to practice in this state, who is trained in the proper medical process and the potential health problems associated with a body cavity search.

T. When a body cavity search is conducted by a licensed medical professional of the opposite sex, an observer of the same sex as the prisoner should be present.

U. Nothing in this section prohibits a person upon whom a body cavity search is to be performed from having a readily available person of his or her choosing present at the time the search is conducted. However, the person chosen shall not be a person being held in custody by a law enforcement agency.

V. The officer requesting the body cavity search shall prepare and sign a report, which shall include:

1. A copy of the warrant and any supporting documents required;
2. The name and sex of all persons conducting or observing the search;
3. The time, date, place and description of the search; and
4. A statement of the results of the search and a list of any items removed from the person as a result of the search.

W. The report shall be retained as part of the agency's records.

X. Body Vermin. Any person with body vermin shall be treated appropriately.

Y. Communicable Diseases. Prisoners suspected of having a communicable disease detrimental to the health of the other prisoners shall be segregated.

Z. Prisoner Property. At the time of booking, if the prisoner's personal property is taken from him, the authorized jail staff shall record and store such items, and issue the prisoner a receipt.

AA. Bedding and Personal Care Items. At a reasonable time after completion of booking, each prisoner shall be issued clean bedding, as well as allowable personal care items.

BB. Writing Paper. Upon prisoner request, a reasonable supply of writing material shall be furnished. (Ord. 1824 § 1, 1991)

2.37.110 Preclassification procedures.

Prior to classification, reasonable precautions shall be taken to ensure the safety and welfare of prisoners and the security of the jail. (Ord. 1824 § 1, 1991)

2.37.120 Orientation.

As soon as reasonable after booking, the prisoner shall be advised of any facility rules and regulations. His questions shall be answered. (Ord. 1824 § 1, 1991)

2.37.130 Classification and segregation.

A. Classification Procedures. Written classification procedures shall be included in the policies and procedures.

B. Classification. The chief of police or such person's designee, shall be responsible for classification in accordance with written procedures.

C. Classification Training. At least one staff person per shift shall be trained in the facility's classification procedures and shall be responsible for classification.

D. Classification Criteria. To the extent possible in the available physical plant, the following classification criteria shall be used. If they cannot be enforced, arrangements shall be made to immediately transfer the prisoners involved to another facility which can segregate and supervise them.

E. The primary criteria for classification shall be safety of the prisoner and the security of the jail.

F. Juvenile. No juvenile shall be held in a jail without sight and sound separation from adult prisoners. For purposes of this standard, a juvenile is a person under the chronological age of 18, who has not been transferred previously to adult courts; provided, that no person under the chronological age of 16 shall be held in a jail or holding facility for adults; provided further, that this standard does not preclude or prohibit the housing of remanded pretrial prisoners under the chronological age of 18 within juvenile detention facilities rather than city or county adult detention facilities. A juvenile shall not be considered "transferred previously to adult court" unless a juvenile court has held a hearing under RCW 13.40.110 or successor statute and ordered the juvenile transferred for adult criminal prosecution. The exercise of jurisdiction by a limited-jurisdiction court in traffic, fish, boating or game offenses or infractions pursuant to RCW 13.04.030(6)(c) or successor statute does not constitute a "transfer."

G. A juvenile shall not be confined in a jail or holding facility for adults except:

1. For a period not exceeding 24 hours excluding weekends and holidays and only for the purpose of an initial court appearance in a county where no juvenile detention facility is available, a juvenile may be held in an adult facility; provided, that the confinement is separate from the sight and sound of adult inmates; or
2. For not more than six hours and pursuant to a lawful detention in the course of an investigation, a juvenile may be held in an adult facility; provided, that the confinement is separate from the sight and sound of adult inmates.

H. Females shall be segregated from visual and physical contact with male prisoners except under continual supervision of a staff person.

I. Special problem prisoners who endanger the health or safety of other prisoners shall be segregated and closely supervised.

J. Factors to be considered in classification include, but are not limited to age, type of crime, pretrial versus post trial status, and offender sophistication. (Ord. 1824 § 1, 1991)

2.37.140 Good time.

The chief of police or such person's designee should develop written policies regarding time off for good behavior. Such policies should ensure that good time, when authorized by sentencing courts, is given on a consistent basis, and in accordance with RCW 70.48.210 and 9.92.151. (Ord. 1824 § 1, 1991)

2.37.150 Release and transfer.

A. Release. The releasing officer shall determine prisoner identity and ascertain that there is legal authority for the release.

B. The information required on the release forms shall be recorded for each prisoner released from the facility.

C. All prisoners being released shall sign a witnessed receipt for personal property returned.

D. Transfer. In addition to the release procedures designated above, the releasing officer shall determine that receiving unit or person has the authority to accept custody. (Ord. 1824 § 1, 1991)

2.37.160 Transportation.

When jail facility staff are responsible for prisoner transportation and when the prisoner is still in the custody and under the supervision of the jail, the chief of police or such person's designee shall develop and maintain instructions which ensure the safety of the prisoners and staff. (Ord. 1824 § 1, 1991)

2.37.170 Staffing.

A. General Staffing. At all times at least one staff member shall be awake, alert and directly responsible for supervision and surveillance; provided, that this section does not require the presence of such staff when no prisoners are being housed or booked in the facility.

B. Same Sex Staffing. A jail staff member of the same sex as the prisoner shall be available in a reasonable time for all custodial activities which involve intimate physical contact or activities which are commonly afforded reasonable protection against opposite sex observation or supervision except where the health, safety and security of the individual or the staff member would be jeopardized; provided, that personal observation of prisoners for this or other sections of these standards may be by opposite sex staff so long as opposite sex privacy concerns are given appropriate protection.

C. Surveillance. There shall be continual sight and/or sound surveillance of all prisoners.

D. Such surveillance may be by remote means; provided, there is the ability of staff to respond face-to-face to any prisoner within three minutes; provided, that special problem prisoners are subject to the more stringent personal observation and supervision requirements of other sections.

E. Each prisoner shall be personally observed by staff at various times. All prisoner checks shall be recorded in writing and retained in the jail records.

F. In the absence of unusual behavior or other concerns for prisoner security and health, personal observation of prisoners by staff may be reduced to, but should not be less frequent than, at least once within every 60-minute period. (Ord. 1824 § 1, 1991)

2.37.180 Supervision and surveillance.

A. Prisoner Identification. All holding facilities shall establish a means of identifying prisoners.

B. Perimeter Security. Perimeter security shall be maintained within existing physical plant limitations.

C. Security Devices. Minimum necessary security devices shall be maintained in proper working condition at all times.

D. Prisoner Authority. No prisoner shall be permitted to have authority over other prisoners.

E. Prisoner Counts. A system shall be maintained for taking and recording prisoner counts as necessary.

F. Contraband Control. All holding facilities shall establish and maintain a written procedure regarding searches of prisoners, visitors, and the facility to prevent the introduction of contraband. All jails which permit visiting shall post a sign displaying the penalty for the introduction of contraband. (RCW 9A.76.010, 9A.76.140, 9A.76.150 and 9A.76.160). (Ord. 1824 § 1, 1991)

2.37.190 Critical articles.

A. All holding facilities shall establish written procedures to ensure that weapons shall be inaccessible to prisoners at all times.

B. Weapon lockers should be located outside of booking and confinement areas.

C. Whenever possible, keys to weapon lockers shall be located outside of booking and confinement areas.

D. Keys and Locking Devices. Key regulations shall be established by the chief of police or such person's designee.

E. A control point shall be designated for key cataloging and logging the distribution of keys.

F. There shall be at least two sets of jail facility keys, one set in use and the other stored securely but easily accessible to staff for use in the event of an emergency.

G. All keys not in use shall be stored in a secure area inaccessible to prisoners.

H. Emergency keys shall be marked and placed where they may be quickly identified in case of an emergency.

I. Keys shall be accounted for at all times.

J. Jail facility keys shall never be issued to a prisoner.

K. If electronic devices are used in place of keys, there shall be key or other manual override capabilities available for immediate use in case of an emergency and/or failure of the system.

L. The chief of police or such person's designee, shall establish and maintain written procedures regarding storage of protective equipment and dangerous kitchen utensils, if applicable. (Ord. 1824 § 1, 1991)

2.37.200 Rules of conduct.

A. Rules Established. The chief of police or such person's designee, shall establish uniform rules and disciplinary sanction to guide the conduct of all prisoners which rules shall designate major and minor infractions.

B. Prisoners Informed. Printed rules and possible disciplinary sanctions shall be given to each prisoner and/or posted conspicuously within the jail or conveyed orally to each prisoner. Reasonable efforts shall be made to inform non-English speaking prisoners.

C. Major Infractions. If major infractions are handled within the facility, rather than as criminal proceedings, all major infractions of the rules shall be reported in writing to the supervisor prior to shift change by the staff member observing or discovering the act. Such reports shall become a part of the prisoner's jail record.

D. Disciplinary Committee. The chief of police or such person's designee or designees shall hear and decide all charges of major violation of facility rules and impose sanctions.

E. It is recommended, but not required, that there be a committee of two or more staff to perform the function of disciplinary committee.

F. Any facility staff member involved in a charge shall not be allowed to participate as a hearing officer with respect to that charge.

G. Disciplinary Procedures. Any charge pending against a prisoner shall be acted on as soon as possible and no later than 72 hours (exclusive of Saturday, Sundays and holidays) after observation or discovery of the infraction. Action in this context means either a disciplinary hearing or a decision not to impose any sanction requiring a hearing.

H. At least 24 hours prior to hearing, the prisoner shall receive a copy of the written infraction report made in conformance with subsection (C) of this section. If the prisoner is illiterate, the infraction report shall be read to him.

I. The prisoner alleged to have committed a major infraction shall have, and be promptly advised of, the following rights:

1. The prisoner shall have the right to be present at all stages of the hearing, except during the decisional deliberations;

2. The prisoner shall be allowed to appear on his own behalf, to present witnesses, and to present documentary evidence unless the exercise of such rights would be unduly hazardous to institutional safety or correctional goals, in which case the prisoner shall be given a written statement of the reasons for such judgments and the prisoner's record shall contain a statement with regard to such grounds;

3. A prisoner who is unable to represent himself in such a hearing shall be informed of his right to be assisted by another person in understanding and participating in the proceedings;

4. The prisoner shall be advised of the decision in a written notice giving the reasons for the disciplinary action, if any, and evidence relied on; and

5. The prisoner shall be permitted to appeal the disciplinary hearing decision to the chief of police or such person's designee in accordance with appeal procedures established by the jail and included in its printed procedures and rules.

a. All disciplinary proceedings shall be recorded.

b. There shall be a finding of guilt based on the preponderance of evidence before imposition of a sanction.

J. Minor Infractions. Minor infractions may be handled by any staff person by reprimand, warning, or minor sanction as defined by rule. Such incidents may become part of the prisoner's record only with the approval of the supervisor and verbal notification to the prisoner. (Ord. 1824 § 1, 1991)

2.37.210 Discipline.

A. Corrective action or forms of discipline. When punitive measures are imposed, such measures shall be in accordance with law, and recommended sanctions, and appropriate to the severity of the infraction.

B. Acceptable forms of discipline shall include but not be limited to the following:

1. Loss of privileges;
2. Removal from work detail or other assignment;
3. Recommendation of forfeiture of "good time" credit;
4. Transfer to the maximum security or segregation section.

C. Limitations on Punishment.

1. No prisoner or group of prisoners shall be given authority to administer punishment to any other prisoner or group of prisoners.
2. Deprivation of regular feeding, clothing, bed, bedding or normal hygienic implements and facilities shall not be used as a disciplinary sanction.
3. Correspondence privileges shall not be denied or restricted, except in cases where the prisoner has violated correspondence regulations. In no case shall the correspondence privilege with any member of the bar, holder of public office, the courts, and the department of corrections or chief of police be suspended.
4. Restrictions on Visitation.
 - a. Visitation privileges should not be denied or restricted as a sanction for infractions of rules of the institution unrelated to visitation.
 - b. Under no circumstances shall attorney-client visits be restricted.
5. No prisoner shall be held in disciplinary segregation for more than five consecutive days without review by the disciplinary hearing body or chief of police or such person's designee, and in no event shall a prisoner be held in disciplinary segregation for more than 10 consecutive days as the result of any one hearing.
6. Corporal punishment and physical restraint (e.g., handcuffs, leather restraints and strait jackets) shall not be used as sanctions. (Ord. 1824 § 1, 1991)

2.37.220 Grievance procedures.

The chief of police or such person's designee for each jail should develop and maintain procedures for the collection of prisoner grievances. Such procedures should provide for persons to whom grievances are to be

directed, for timely review of grievances and for notification of action taken regarding the grievance. (Ord. 1824 § 1, 1991)

2.37.230 Written procedures for medical services.

A. There shall be on file, in the jail, a written procedure which provides that necessary medical services will be provided 24 hours a day by one or more of the following:

1. A licensed physician;
2. A health care professional supervised by a licensed physician;
3. A hospital or clinic.

B. Security. All providers of medical services in holding facilities shall observe the security regulations which apply to jail personnel.

C. Licensing and Certifications. Medical services shall be provided only by licensed or certified health care providers. (Ord. 1824 § 1, 1991)

2.37.240 Health care policies.

Written standard operating procedures shall consist of but not be limited to the following:

- A. Receiving screening;
- B. Non-emergency medical services;
- C. Deciding the emergency nature of illness or injury;
- D. First-aid;
- E. Notification of next of kin or legal guardian in case of serious illness, injury or death;
- F. Screening, referral and care of mentally ill and retarded inmates, and prisoners under the influence of alcohol and other drugs;
- G. Detoxification procedures; and
- H. Pharmaceuticals. (Ord. 1824 § 1, 1991)

2.37.250 Health screening.

A. Receiving screening shall be performed on all prisoners upon admission to the facility, and the findings recorded on a printed screening form.

B. If the results of receiving screening indicate a medical problem that may be detrimental to the health or safety of the prisoner, but is of a non-emergency nature, then the prisoner shall be seen within a reasonable time by a physician or nurse to determine the need for further diagnosis or treatment. (Ord. 1824 § 1, 1991)

2.37.260 Access to health care.

A. Written procedures for gaining access to medical services shall be given to each prisoner at the time of admission and/or posted conspicuously in the jail.

B. Prisoner complaints of injury or illness, or staff observations of such shall be acted upon by staff as soon as reasonably possible. Prisoners shall be provided with medical diagnosis or treatment as necessary.

C. Work release prisoners should be allowed to see their own physician.

D. Emergency Care. Standard first-aid kits shall be conveniently available to all jails.

E. Emergency medical and dental care shall be available on a 24-hour basis in accordance with a written plan which includes:

1. Arrangements for the emergency evacuation of the prisoner from jail.
2. Arrangements for the use of an emergency medical vehicle.
3. Arrangements for the use of one or more designated hospital emergency rooms or other appropriate health facilities.
4. Arrangements for emergency on-call physician and dentist services when an emergency health facility is not located in a nearby community.
5. Arrangements for emergency mental illness care for prisoners. (Ord. 1824 § 1, 1991)

2.37.270 Health care training.

A. Jail personnel shall be trained in standard first-aid equivalent to that defined by the American Red Cross and usual emergency care procedures prior to employment or during the probationary period. Written standard operating procedures and training of staff shall include but not be limited to:

1. Awareness of potential medical emergency situations;
2. Notification or observation-determination that a medical emergency is in progress;
3. First-aid and resuscitation;
4. Call for help; and
5. Transfer to appropriate medical provider.

B. At least one person per shift shall have training in receiving screening.

C. At least one person available per shift shall have training in basic life support cardiopulmonary resuscitation (CPR).

D. All persons delivering medication shall be properly trained. (Ord. 1824 § 1, 1991)

2.37.280 Medications control.

A. When a pharmacy is operated within the jail, the chief of police or such person's designee shall maintain standard operating procedures for the dispensing and administration of medications.

B. The standard operating procedures for medication dispensing and administration shall include, but not be limited to, policies regarding:

1. Nonmedical jail personnel delivering medication(s) to prisoners;
2. Disposition of medication(s) brought in by prisoners at the time of admission to the facility;
3. The medications system, which shall ensure that all medications shall be kept in containers which have been labeled securely and legibly by a pharmacist or prescribing physician, or in their original container labeled by their manufacturer. Medications shall not be transferred from the original container except for the preparation of a dose administration;
4. Safeguards with regard to delivery of medications to prisoners; and
5. Disposition of unused medication(s).

C. The standard operating procedures should include a policy regarding the maximum security storage and weekly inventory of all controlled substances, nonprescription medication(s), and any syringes, needles and surgical instruments.

D. The person delivering medication shall be accountable for following the order of the prescribing physician. (Ord. 1824 § 1, 1991)

2.37.290 Health care records.

A. Prisoner File Maintenance. Prisoner medical files shall contain the completed receiving screening form, all findings, diagnoses, treatments, dispositions, prescriptions and administration of medications, notes concerning patient education, notations of place, date and time of medical encounters and terminations of treatment from long term or serious medical or psychiatric treatment, if applicable.

B. Prisoner File Confidentiality. Medical records shall be maintained separately from other jail records to the extent necessary to protect their confidentiality.

C. Medical records shall not be released to other persons or agencies without the written authorization of the prisoner.

D. The responsible physician or medical care provider shall communicate information obtained in the course of the medical screening and care to jail authorities when necessary for the protection of the welfare of the prisoner or other prisoners, management of the jail, or maintenance of jail security and order.

E. Information regarding known serious health problems shall be communicated to any transferring officer or receiving jail or correctional institution at the time of transfer.

F. The person delivering medications shall record the actual date and time of the delivery. (Ord. 1824 § 1, 1991)

2.37.300 Special medical issues.

A. Informed Consent. All examinations, treatments and procedures affected by informed consent standards in the community shall likewise be observed for prisoner care.

B. Special Medical. Jail staff suspecting prisoner mental illness shall notify the appropriate mental health authorities.

C. Appropriate medically supervised treatment in accordance with written procedures established under LMC 2.37.260 shall be given in the jail to prisoners determined to be mentally ill or under the influence of alcohol, opiates, barbiturates and similar drugs when such care is not provided in a community health facility. (Ord. 1824 § 1, 1991)

2.37.310 Access to facilities.

A. Regular bathing (shower) shall be permitted at least twice each week.

B. Each prisoner shall have access to toilet, sink, drinking water and adequate heat and ventilation.

C. Bedding. Prisoners shall be issued clean bedding within a reasonable time. Bedding shall include, but not be limited to:

1. A mattress which shall have a washable surface which shall be sanitized at least semi-annually or more often if needed.

2. A mattress cover or sheet which shall be washed weekly or more often as needed, and always before reissue.

3. A blanket which shall be washed at frequent intervals to maintain a clean condition, and always before reissue.

D. Personal Care Items. Personal care items issued to each prisoner held in excess of six hours shall include, but not be limited to, soap and towel. Female prisoners shall be supplied with necessary feminine hygiene items.

E. Toothpaste, toothbrush and comb shall be provided for all prisoners held in excess of 12 hours. Such items shall be available for purchase or shall be issued as needed; provided, that indigent prisoners shall have access to these minimum items without cost. (Ord. 1824 § 1, 1991)

2.37.340 Sanitation.

A. General Sanitation. The jail shall be kept in a clean and sanitary condition, free from any accumulation of dirt, filth, rubbish, garbage, or other matter detrimental to health.

B. When the facility is occupied, the housekeeping program shall include a daily general sanitation inspection and daily removal of trash and garbage.

C. Each prisoner shall clean his own living area daily.

D. Insects and Rodents. Insects and rodents shall be eliminated by safe and effective means.

E. Pets shall not be allowed in the jail.

F. Laundry. There shall be adequate laundry services. (Ord. 1824 § 1, 1991)

2.37.350 Programs.

A. Commissary. The chief of police or such person's designee shall either establish, maintain, and operate a commissary, or provide prisoners with a list of approved items to be purchased at cost at least once a week at local stores.

B. If jail rules do not permit prisoners to keep money on their persons, payments for commissary purchases shall be made by debit on a cash account maintained for the prisoner. All expenditures from a prisoner's account shall be accurately recorded and receipted.

C. Reading Materials. Each jail should provide for reading materials.

D. Legal Assistance. When adequate professional legal assistance is not available to prisoners for purposes of preparing and filing legal papers, a jail shall provide access to necessary law books and reference materials.

E. Facility rules shall not prohibit one prisoner from assisting another in the preparation of legal papers.

F. Religious Services. Upon reasonable request from a prisoner, the jail staff shall arrange for confidential religious consultation.

G. Attendance at religious services shall be voluntary.

H. The chief of police or such person's designee may utilize volunteer counseling resources available in the community; provided, that the security of the facility is not jeopardized.

I. Prisoners are not required to receive counseling services unless ordered by the appropriate court or the disciplinary review body.

J. Work Programs. The chief of police may establish work programs.

K. Participation in work programs by practical detainees shall be voluntary.

L. Education or Training Programs. The chief of police or such person's designee may allow the prisoner to contact or be contacted by community representatives of education or training programs. (Ord. 1824 § 1, 1991)

2.37.360 Telephone usage.

A. Telephone Usage. The chief of police or such person's designee shall establish and post rules which specify regular telephone usage times and maximum length of calls (not to be less than five minutes).

B. Telephone usage hours shall include time during the normal work day and time during the evening, at least once a week per prisoner; provided, that established social telephone usage shall not preclude reasonable access to a telephone to contact the prisoner's attorney or legal representative.

C. Long distance calls shall be at the prisoner's expense or collect; provided, that appropriate protection of access to an attorney shall be maintained for prisoners without funds.

D. Location of telephone facilities shall insure reasonable privacy and telephone conversations shall not be monitored, tape recorded or spot-checked except by court order.

E. Reasons for calls shall be the personal concern of the prisoner, except in consideration of requests for emergency calls beyond normal telephone hours. (Ord. 1824 § 1, 1991)

2.37.370 Mail.

A. Newspapers, books, periodicals or other printed materials and photographs. Prisoners shall generally be permitted to receive books, newspapers, periodicals and other printed materials or photographs which may lawfully be delivered through the United States Mail. Such materials shall be denied a prisoner only if such denial furthers a substantial governmental interest in jail security or the welfare of prisoners or staff.

B. If such materials are withheld from a prisoner:

1. The prisoner shall receive written notice that the publication is being denied, accompanied by an explanation of the reason(s) for the denial.
2. The affected prisoner shall be promptly informed of his right to have such decision reviewed by the disciplinary hearing body, the chief of police or such person's designee upon written request.
3. A written decision of the review of the denial, including reason(s) in support of the written decision, shall be given to the prisoner requesting review.

C. General Correspondence. Incoming or outgoing mail shall be retained no more than one business day.

1. Except in the case of prisoners without funds, prisoners shall be permitted to mail out any number of letters including letters to attorneys, the courts, and elected federal, state county and city officials. Prisoners without funds shall be permitted to mail up to three letters per calendar week at public expense; provided, that no limit be set on the number of letters which may be sent to the prisoner's attorney or to the courts.

2. No restrictions shall be placed on the number of letters a prisoner may receive or on the persons with whom he may correspond, except by order of a court of competent jurisdiction, or as provided under subsection (C)(3) of this section.

3. These rules shall not preclude a prisoner being required to place his name and return post office address on outgoing mail.

D. Opening or Censoring Mail. No general restriction of the number of letters prisoners may receive or of classes of persons with whom they may correspond shall be made by rule or policy.

E. Incoming mail shall not be censored, but may be opened and inspected for contraband, cash and checks and may be perused for content when the responsible staff person designated by the chief of police or such person's designee has reasonable grounds to believe that the content of a letter may present a clear and present danger to institutional security, or violates state or federal law. Whenever mail is not delivered by the jail staff directly to the prisoner to whom it is addressed, it shall be resealed.

F. Except by order of a court of competent jurisdiction, outgoing mail shall not be opened unless the responsible staff person designated by the chief of police or such person's designee has reasonable grounds to believe that the content of a letter may present a clear and present danger to institutional security, or violates state or federal law.

G. Notice of Disapproval of Prisoner Mail. If a prisoner is prohibited from sending a letter, the letter and written and signed notice stating the reason for disapproval, and indicating the portion(s) of the letter causing disapproval, shall be given to the prisoner.

H. When a prisoner is prohibited from receiving a letter, the letter and a written signed notice stating the reason (s) for denial and indicating the portion(s) of the letter causing the denial shall be given to the sender. The prisoner shall be given notice in writing that the letter has been prohibited, indicating the reason(s) and the sender's name.

I. When a prisoner is prohibited from sending or receiving mail, the affected prisoner is entitled to have such decision reviewed by the chief of police or such person's designee upon written request and shall be promptly informed of this right.

J. A written decision of the review of such denial of mail shall be promptly delivered to the prisoner.

K. Limitations. Incoming mail of post conviction prisoners that is clearly marked as coming from an attorney, court, or elected federal, state, county or city officials shall be opened only in the presence of the addressee.

L. Mail to or from attorneys, courts or elected federal, state, county or city officials shall not be read.

M. There shall be no additional restrictions on prisoner correspondence for disciplinary or punishment purposes, unless the prisoner has violated rules as to correspondence. Upon proper showing of the alleged violation, the prisoner's mail may be restricted for a limited time, but such restriction shall not apply to attorney-client mail or correspondence with the courts.

N. Packages.

1. All packages shall be opened and inspected.

2. Packages may be received only if the contents conform to rules adopted by the chief of police or such person's designee and a witnessed receipt for permissible items shall be promptly delivered to the prisoner, unless such package is opened in the presence of the prisoner and all items are given directly to him.

3. Outgoing packages of prisoner's personal property shall be inspected to ensure ownership and compliance with United States postal regulations.

O. Contraband. Items which are not permitted by jail rules may be destroyed upon the prisoner's written request, placed in the prisoner's property box, or returned collect to the sender.

P. Permissible items received in the mail, including money or checks, shall be recorded by a staff member and notification thereof given to the prisoner.

Q. Contraband, as defined in RCW 9A.76.010, shall be turned over to the proper authorities, for handling as evidence, for disciplinary action or possible prosecution under RCW 9A.76.140, 9A.76.150, or 9A.76.160 or other applicable statutes. (Ord. 1824 § 1, 1991)

2.37.380 Visitation.

A. The degree of security required for each prisoner during visitation shall be determined by the person or persons responsible for classification.

B. Social Visits. The chief of police or such person's designee shall establish and post rules which permit reasonable opportunities for social visits for each prisoner and specifying time therefore.

C. Each prisoner shall be allowed confidential visits from his attorney or legal assistants and his pastor at reasonable hours.

D. Visitor Regulations. Signs giving notice that all visitors and their accompanying possessions are subject to search shall be conspicuously posted.

E. Any person may refuse a search but, subsequent to such refusal, may then be denied entrance.

F. Other reasons for denying entrance to visitors shall include, but not be limited to:

1. An attempt, or reasonable suspicion of an attempt, to bring contraband into the facility;
2. Obvious influence or effect of alcohol or controlled substances;
3. Request from the prisoner's physician;
4. Request from the prisoner;
5. Reasonable grounds to believe a particular visit would present a substantial danger to jail security, or management, or to the welfare of prisoners, staff, or other visitors.

G. If a visitor is refused admittance during regular visitor hours:

1. The prisoner shall receive notice of refusal stating the reasons therefore;
2. The affected prisoner is entitled to have such decision reviewed by the disciplinary hearing body, the chief of police or such person's designee upon written request and shall be promptly informed of this right. (Ord. 1824 § 1, 1991)

Mobile Version

2.36.110 Operation of jail.



The chief of police shall have charge and supervision of the Lynnwood municipal jail. The chief of police is authorized and directed to promulgate policies and standards not inconsistent with the laws of the United States, the state of Washington, and the ordinances of the city, as deemed necessary or expedient for the operation of the jail, the protection of the inmates and staff, and to provide for the public health, safety, and welfare. (Ord. 2182 § 2, 1998; Ord. 1610 § 1, 1987)

D-22

CITY COUNCIL ITEM E

CITY OF LYNNWOOD City Council

TITLE: Break

DEPARTMENT CONTACT: Christiine Frizzell, Council President

DOCUMENT ATTACHMENTS

Description:

Type:

No Attachments Available

CITY COUNCIL ITEM F

CITY OF LYNNWOOD City Council

TITLE: Mayor Comments and Questions

DEPARTMENT CONTACT: Nicola Smith, Mayor

DOCUMENT ATTACHMENTS

Description:

Type:

No Attachments Available

CITY COUNCIL ITEM G

CITY OF LYNNWOOD City Council

TITLE: Council President and Council Comments

DEPARTMENT CONTACT: Christine Frizzell, Council President

DOCUMENT ATTACHMENTS

Description:

Type:

No Attachments Available

CITY COUNCIL ITEM H

CITY OF LYNNWOOD Executive

TITLE: Executive Session: Personnel Matter

DEPARTMENT CONTACT: Leah Jensen

DOCUMENT ATTACHMENTS

Description:

Type:

No Attachments Available

CITY COUNCIL ITEM M-1

CITY OF LYNNWOOD
Parks, Recreation, & Cultural Arts

TITLE: Contract Supplement: Scriber Creek Trail Improvements

DEPARTMENT CONTACT: Sarah Olson, Monica Thompson, David Mach

SUMMARY:

The Parks and Public Works Departments are requesting the City Council to approve a supplement to the design contract for the Scriber Creek Trail Improvements project.

City Council awarded an initial professional services contract for the project to Parametrix of Seattle, WA for an amount of \$112,214 to conduct preliminary design and alignment alternatives. Utilizing management reserve, funding authority, and Council action, the City executed nine supplemental agreements for preliminary design for a new maximum amount payable of \$602,139.05.

This request is for authorization of Supplement #10 which will progress the project to 60-percent design, preparation of environmental permit applications, and right of way acquisition services for Phase 2 of the Scriber Creek Trail Improvements. Phase 2 extends from north of 200th St SW to the southwest corner of the Lynnwood Transit Center. This supplement adds \$296,000.01 for a new contract maximum amount payable of \$898,139.06.

ACTION:

Authorize the Mayor to enter into and execute on behalf of the City a contract with Parametrix of Seattle, Washington for professional services in an amount not to exceed \$898,139.06. Sales tax does not apply.

BACKGROUND:

Scriber Creek Trail currently is a soft surface pedestrian trail that generally follows the Scriber Creek corridor in Lynnwood. The trail links Scriber Lake Park, Sprague's Pond Mini Park, Scriber Creek Park, the Interurban Trail and The Lynnwood Transit Center on 44 Ave West. This project will improve and convert the existing trail to a Multi-modal facility.

The project is the first phase of a much larger project which will eventually extend Scriber Creek Trail from Wilcox Park north to Lund's Gulch and Meadowdale Beach Park. The scope of this project is to complete approximately 4,000 feet of shared use trail from the Interurban Regional Trail/Lynnwood Transit Center (northwest corner of the Transit Center) to Wilcox Park at the intersection of 196th St SW/52nd Ave West.

The trail will be generally 10-12 feet wide with 2-foot shoulders and constructed with hard pervious surface. In a few isolated wetland and stream areas, the trail will be constructed on an elevated boardwalk with a durable and slip resistant surface. The elevated boardwalk will be 10 feet wide with 2 foot buffers from the railings on either side.

The City received \$675,000 from the Washington State 2017 Pedestrian & Bicycle Safety Program in 2017 and allocated a local match of \$225,000 from local REET fund for this project in the 2017-18 and 2019-20 capital budgets.

Due to project costs and grant funding sources, this project was split into two phases after 30% Design: Phase 2 (Transit Center to 200th St) and Phase 3 (200th St to Wilcox Park). Phase 1 is being

constructed by Sound Transit as part of the light rail project. See Project Funding Summary and Trail Phase Map.

PREVIOUS COUNCIL ACTIONS:

Supplement #7 approved on May 28, 2019.

Original Contract approved on February 26, 2018.

FUNDING:

Fund 380, Parks Capital Fund with funding from Washington State 2017 Pedestrian & Bicycle Safety Program and Local Reet1 (331) funds

KEY FEATURES AND VISION ALIGNMENT:

The Lynnwood Community Vision states that the City is to invest in efficient, integrated, local and regional transportation systems, be a welcoming city that builds a healthy and sustainable environment, and be a city that is responsive to the wants and needs of our citizens.

The Scriber Creek Trail Improvements project supports that vision and results in an important improvement to the City's infrastructure that links City of Lynnwood programs, policies, comprehensive plans, mission, and ultimately the Community Vision. The project is a supporting capital project that is listed specifically as project 201500107 in the Capital Facilities Plan and a project in 2018-2013 Transportation Improvement Plan (TIP) as well as one of the three priority projects needed to support future Lynnwood Link light rail.

ADMINISTRATION RECOMMENDATION:

Approve contract.

DOCUMENT ATTACHMENTS

Description:	Type:
Supplement 10	Contract
Supplement 10 Exhibit A - Summary of Work	Backup Material
Project Funding Summary	Backup Material
Scriber Creek Trail Project Phases Map	Backup Material



**Washington State
Department of Transportation**

Supplemental Agreement Number _____	Organization and Address	
Original Agreement Number		
Project Number	Phone:	
	Execution Date	Completion Date
Project Title	New Maximum Amount Payable	
Description of Work		

The Local Agency of _____
desires to supplement the agreement entered in to with _____
and executed on _____ and identified as Agreement No. _____
All provisions in the basic agreement remain in effect except as expressly modified by this supplement.
The changes to the agreement are described as follows:

I

Section 1, SCOPE OF WORK, is hereby changed to read:

II

Section IV, TIME FOR BEGINNING AND COMPLETION, is amended to change the number of calendar days
for completion of the work to read: _____

III

Section V, PAYMENT, shall be amended as follows:

as set forth in the attached Exhibit A, and by this reference made a part of this supplement.

If you concur with this supplement and agree to the changes as stated above, please sign in the Appropriate
spaces below and return to this office for final action.

By: _____ By: _____

Consultant Signature

Approving Authority Signature

Date

M-1-3

Exhibit "A"
Summary of Payments

	Basic Agreement	Supplement #1	Total
Direct Salary Cost			
Overhead (Including Payroll Additives)			
Direct Non-Salary Costs			
Fixed Fee			
Total			

See attached Exhibit A for Summary of Payments

Exhibit A
Summary of Payments

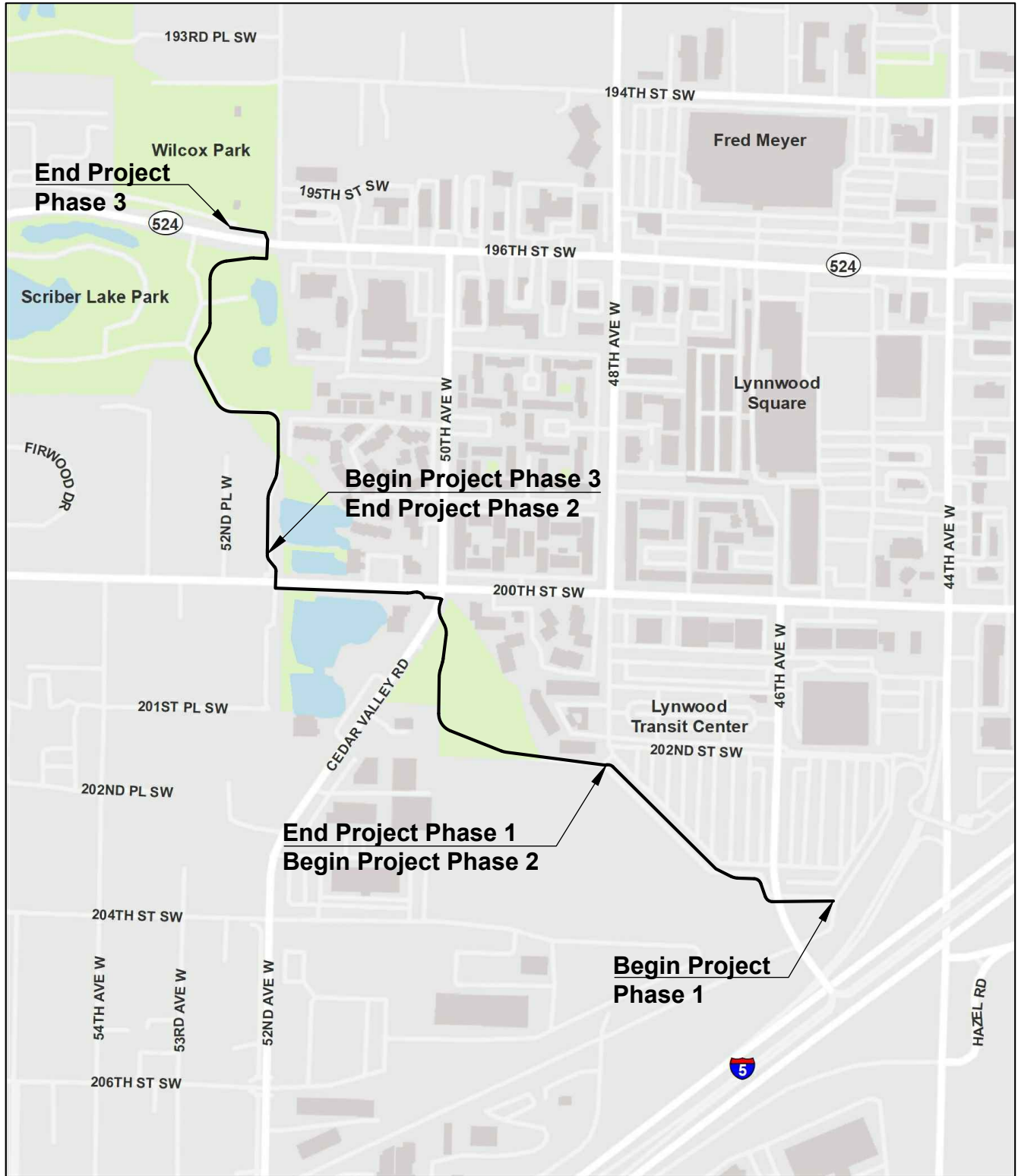
	Basic Agreement	Supplement #1	Supplement #2	Supplement #3	Supplement #4	Supplement #5	Supplement #6	Supplement #7	Supplement #8	Supplement #9	Supplement #10	PROJECT TOTAL
Direct Salary Cost	\$ 31,711.52	\$ -	\$ 1,175.98	\$ (4,467.84)	\$ 2,238.93	\$ 2,589.77	\$ 2,317.94	\$ 101,297.06		\$ 19,129.53	\$ 81,021.99	\$ 237,014.88
Overhead (Including Payroll Additives)	\$ 59,541.55	\$ -	\$ 2,208.02	\$ (8,388.81)	\$ 4,203.81	\$ 4,862.55	\$ 4,352.16	\$ 183,833.90		\$ 10,677.35	\$ 145,159.00	\$ 406,449.53
Fixed Fee	\$ 9,513.46	\$ -	\$ 352.79	\$ (1,340.35)	\$ 671.68	\$ 776.93	\$ 695.38	\$ 30,389.12		\$ 3,203.20	\$ 24,306.60	\$ 68,568.81
Direct Non-Salary Costs	\$ 1,213.26	\$ -	\$ -	\$ -	\$ 160.52	\$ 20.52	\$ 9.72	\$ 9,351.00		\$ 396.00	\$ 695.45	\$ 11,846.47
Subconsultants	\$ -	\$ -	\$ -	\$ 19,475.00	\$ -	\$ 4,375.00	\$ -	\$ 105,558.00		\$ -	\$ 40,923.25	\$ 170,331.25
Management Reserve	\$ 10,200.00		\$ (3,736.79)	\$ (5,278.00)	\$ 18,814.44	\$ (12,624.77)	\$ (7,375.00)	\$ -		\$ -	\$ 3,893.72	\$ 3,893.60
Total	\$ 112,179.79	\$ -	\$ -	\$ -	\$ 26,089.38	\$ -	\$ 0.20	\$ 430,429.08	\$ -	\$ 33,406.08	\$ 296,000.01	\$ 898,104.54

Contract Max Payable	\$ 112,214.59	\$ 112,214.59	\$ 112,214.59	\$ 112,214.59	\$ 138,303.97	\$ 138,303.97	\$ 138,303.97	\$ 568,732.97	\$ 568,732.97	\$ 602,139.05	\$ 898,139.06	\$ 898,139.06
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Scriber Creek Trail Improvements Project Funding Summary
City of Lynnwood

1	Scriber Creek Trail Phases 2 & 3	ESTIMATED COST	FUNDING STATUS	FUNDING SOURCE	SCHEDULE	
					START	COMPLETE
2	Pre-Design (alternatives analysis)	\$130,000	Secured	WA Bike and Ped Grant (\$675,000 WSDOT + \$225,000 COL)	2018	2019
3	30% Design	\$472,139	Secured	WA Bike and Ped Grant (\$675,000 WSDOT + \$225,000 COL)	2019	2020
4	Scriber Creek Trail Phase 2	ESTIMATED COST	FUNDING STATUS	FUNDING SOURCE	SCHEDULE	
					START	COMPLETE
5	60% Design, Environmental, ROW services	\$296,000	Secured	WA Bike and Ped Grant (\$675,000 WSDOT + \$225,000 COL)	2020	2021
6	100% Design & Bid Advertisement	\$295,000	Secured	ST 2 (portion of \$2.5M)	2021	2022
7	Right of Way Acquisition	\$300,000	Secured	ST 2 (portion of \$2.5M)	2020	2021
8	Construction	\$5,000,000	Secured	ST 3 (\$2.5M), CMAQ (\$1M), ST2 or WSDOT (\$1.5M)	2022	2023
9	Scriber Creek Trail Phase 3	ESTIMATED COST	FUNDING STATUS	FUNDING SOURCE	SCHEDULE	
					START	COMPLETE
10	100% Design & Bid Advertisement	\$430,000	Unsecured	FY21/22 Capital Budget	2021	2022
11	Construction	\$5,000,000	Unsecured	Will seek RCO Trails Funding (2022) & WSDOT Bike/Ped	2023	2025
12	TOTAL	\$11,923,139				

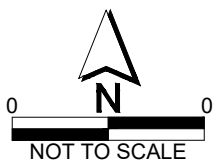
Updated July 2020



Parametrix

DATE: May 15, 2020

FILE: PS2499003F-01



Scriber Creek Trail Phasing Project Area Map

M-1-7

CITY COUNCIL ITEM M-2
CITY OF LYNNWOOD
Parks, Recreation, & Cultural Arts

TITLE: Resolution: Authorizing Grant Applications to the Recreation and Conservation Office (RCO)

DEPARTMENT CONTACT: Sarah Olson, Lynn D. Sordel

SUMMARY:

Approve Authorizing Resolution to submit application to the Recreation and Conservation Office (RCO) for a \$1,670,250 Washington Wildlife and Recreation Program (WWRP) Trails grant to help rehabilitate the Scriber Lake Park woodchip trail loop.

ACTION:

Authorize Mayor to sign Resolution authorizing submittal of grant application to RCO for Scriber Lake Park Trail Rehabilitation.

BACKGROUND:

The City of Lynnwood seeks the WWRP-Trails grant to convert approximately 1,100 linear feet of soft-surface trail into an elevated boardwalk on the north side of Scriber Lake within Scriber Lake Park. The scope of this project is to design and construct a new Boardwalk Trail that will provide an ADA accessible trail, improve the connections to an existing floating dock, redevelop the lake and marsh viewpoints, and provide an internal and separated loop trail within Scriber Lake Park. The primary outdoor recreation opportunities will include walking, wildlife viewing, fishing, and outdoor education. This project is a key component to providing year-round recreation and access to the natural environment for the residents of Lynnwood, especially those living within a quarter-mile of the park who represent the lowest income neighborhood in the City.

The existing trail was built in 1982 and has reached the end of its use as constructed. The trail has been sinking into the peat for years and is currently in poor condition, despite frequent maintenance. The trail is built on peat soils and is prone to sinking, washing away due to seasonal flooding, shifting, separation, degradation, and requires routine wood frame reinforcement/replacement and consistent addition of wood chips to maintain the trails. The floating dock was re-constructed in 2014; however, the connections to land and the existing trail are not secure and sink, and thereby flooded much of the year, rendering even the newest amenity non-accessible by park users. The new dock will remain in place.

Currently, one outlook is closed and needs to be decommissioned with the remainder of the trail at risk of being permanently closed if a replacement project is not initiated in the next two years.

This application will be reviewed, scored, and ranked in September. The ranked list will go to the State Legislature for funding in the 2021 regular session. If funded, City matching funds will need to be certified prior to agreement authorization in approximately May 2021.

FUNDING:

A City match of \$670,251 in total is needed for the RCO grant application. This project qualifies for a significant match reduction because the project site is in a census tract with a median household income less than \$61,062 (the state median household income), and a project in a census block group where the median household income is less than \$42,743 (70 percent of the state median household income).

While the City hasn't yet adopted a capital budget for FY21/22, staff have applied for a Hazel Miller Grant in the amount of \$320,000 to lower the City's capital need. Elements of this project are eligible for park impact fee funding. This project is one of the highest deferred maintenance and ADA compliance priorities of PRCA.

KEY FEATURES AND VISION ALIGNMENT:

This project is directly aligned with the City's vision to "invest in preserving and expanding parks, recreation, and community programs."

ADMINISTRATION RECOMMENDATION:

Approve resolution.

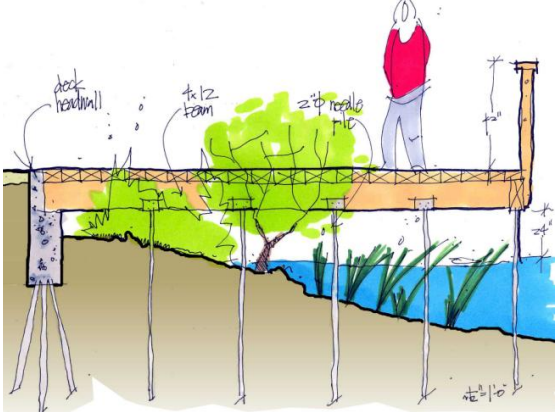
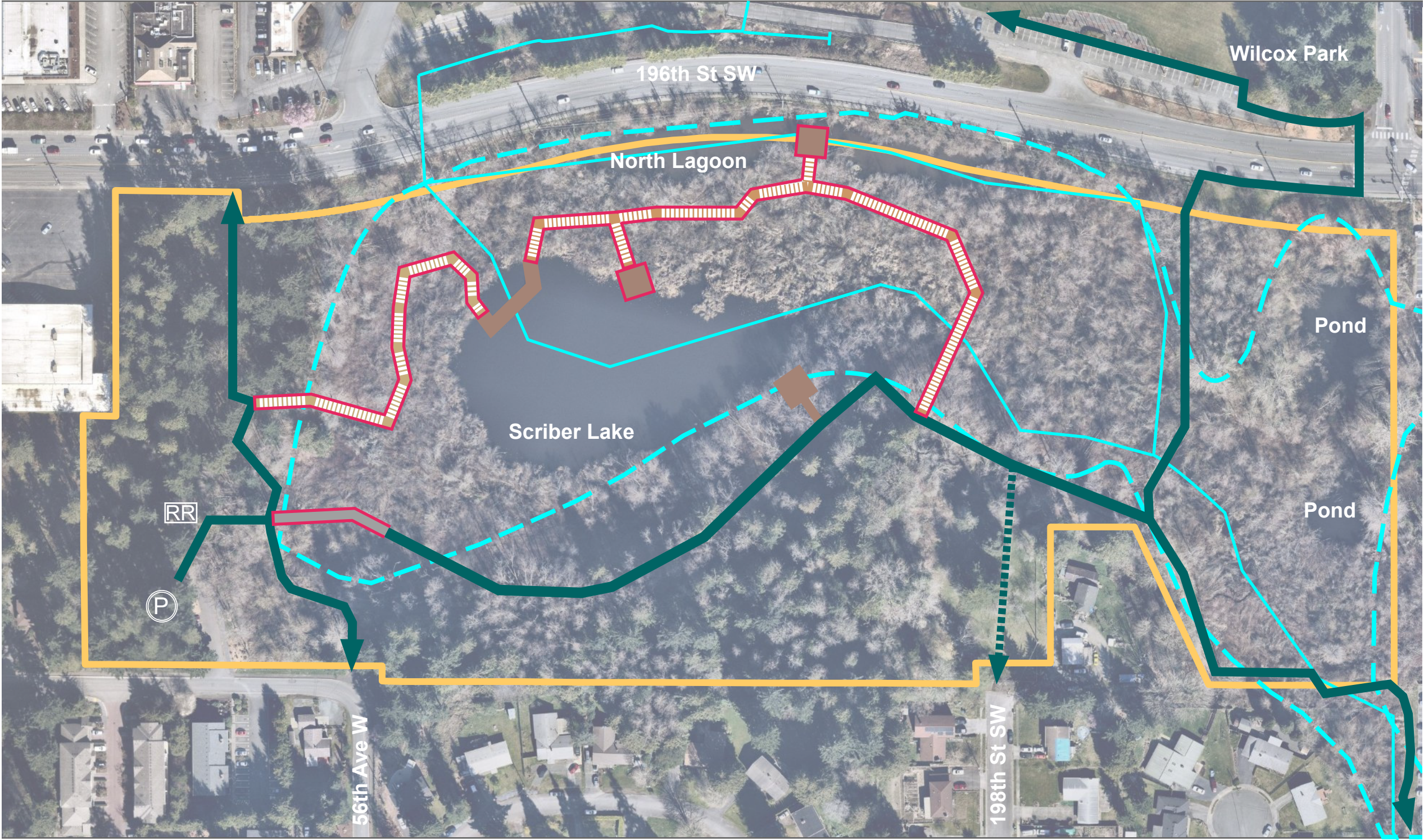
DOCUMENT ATTACHMENTS

Description:	Type:
Project Site Plan	Backup Material
Authorizing Resolution	Resolution

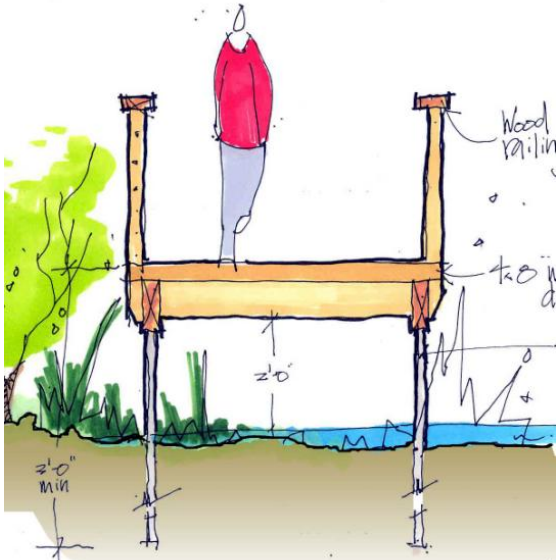
SCRIBER LAKE PARK TRAIL REHABILITATION

PROJECT #: 20-1753D

Site Development Plan (May 29, 2020)














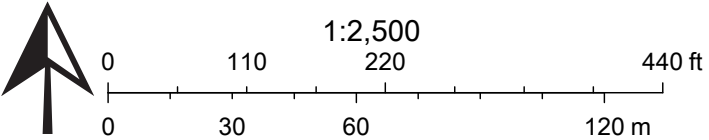
Section: Viewpoint Over Water



Section: Pin-Pile Boardwalk Trail

LEGEND

-  Existing Asphalt Trails To Remain
-  Proposed Boardwalk Trail
-  Proposed Asphalt Trail
-  Proposed Viewpoint Over Water
-  Scriber Lake Park Boundary
-  Wetlands
-  Scriber Creek (Flows South)
-  Existing Soft-Surface Trail to Remain
-  Restroom
-  Parking
-  Existing Dock to Remain





RESOLUTION NO. 2020-XX

A RESOLUTION OF THE CITY OF LYNNWOOD, WASHINGTON
AUTHORIZING APPLICATION FOR GRANT FUNDING ASSISTANCE FOR A
WASHINGTON WILDLIFE AND RECREATION PROGRAM TRAILS PROJECT
GRANT TO THE RECREATION AND CONSERVATION OFFICE AS PROVIDED
IN CHAPTER 79A.15 RCW, ACQUISITION OF HABITAT CONSERVATION
AND OUTDOOR RECREATION LANDS, WAC 286 RECREATION AND
CONSERVATION OFFICE.

WHEREAS, the City's adopted Parks, Arts, Recreation and Conservation (PARC) Plan includes a comprehensive list of park and recreation capital facility needs; and

WHEREAS, the City has adopted a 6-year list of park capital facilities in the Capital Facilities Plan which includes project # PK2003046C Scriber Lake Park Renovation ("Project"); and

WHEREAS, under the provisions of the Washington Wildlife and Recreation Program (WWRP) Trails State grant assistance is requested to aid in financing the cost of facility development; and

WHEREAS, the Parks, Recreation and Cultural Arts Department is advancing a similar trail design for the Scriber Creek Trail for which the Project's scope and cost estimation was developed for this grant proposal; and

WHEREAS, the City adopted Ordinance 3288 establishing Park Impact Fees which will generate funding for capital projects which add system capacity and for which certain components of the Scriber Lake Park Trail Rehabilitation Project are eligible expenses; and

WHEREAS, the City Council considers it in the best interests of the public to complete the project described in our applications for the Scriber Lake Park Trail Rehabilitation Project 20-1753 (WWRP Trails); now, therefore

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

1. The City of Lynnwood, through its Parks, Recreation & Cultural Arts Department, intends to apply for funding assistance managed by the Washington State Recreation and Conservation Office (“Office”) for the projects referenced above.

2. Our organization authorizes the following persons or persons holding specified titles/positions (and subsequent holders of those titles/positions) to execute the following documents binding our organization on the above projects:

Grant Document	Name of Signatory or Title of Person Authorized to Sign
Grant application (submission thereof)	Sarah Olson, Deputy PRCA Director
Project contact (day-to-day administering of the grant and communicating with the RCO)	Monica Thompson, Senior Park Planner Sarah Olson, Deputy PRCA Director
RCO Grant Agreement (Agreement)	Mayor Nicola Smith
Agreement amendments	Mayor Nicola Smith
Authorizing property and real estate documents (Notice of Grant, Deed of Right or Assignment of Rights if applicable). These are items that are typical recorded on the property with the county.	Mayor Nicola Smith

The above persons are considered an “authorized representative(s)/agent(s)” for purposes of the documents indicated. Our organization shall comply with a request from the RCO to provide documentation of persons who may be authorized to execute documents related to the grant.

3. Our organization has reviewed the sample RCO Grant Agreement on the Recreation and Conservation Office’s WEB SITE at: <https://rco.wa.gov/wp-content/uploads/2019/06/SampleProjAgreement.pdf>. We understand and acknowledge that if offered an agreement to sign in the future, it will contain an indemnification and legal venue stipulation and other terms and conditions substantially in the form contained in the sample Agreement and that such terms and conditions of any signed Agreement shall be legally binding on the sponsor if our representative/agent enters into an Agreement on our behalf. The Office reserves the right to revise the Agreement prior to execution.

4. Our organization acknowledges and warrants, after conferring with its legal counsel, that its authorized representative(s)/agent(s) have full legal authority to act and sign on behalf of the organization for their assigned role/document.

5. Grant assistance is contingent on a signed Agreement. Entering into any Agreement with the Office is purely voluntary on our part.

6. Our organization understands that grant policies and requirements vary depending on the grant program applied to, the grant program and source of funding in the Agreement, the characteristics of the project, and the characteristics of our organization.

73 7. Our organization further understands that prior to our authorized
74 representative(s)/agent(s) executing any of the documents listed above, the RCO may make
75 revisions to its sample Agreement and that such revisions could include the indemnification and
76 the legal venue stipulation. Our organization accepts the legal obligation that we shall, prior to
77 execution of the Agreement(s), confer with our authorized representative(s)/agent(s) as to any
78 revisions to the project Agreement from that of the sample Agreement. We also acknowledge
79 and accept that if our authorized representative(s)/agent(s) executes the Agreement(s) with any
80 such revisions, all terms and conditions of the executed Agreement shall be conclusively deemed
81 to be executed with our authorization.

82
83 8. Any grant assistance received will be used for only direct eligible and allowable
84 costs that are reasonable and necessary to implement the project(s) referenced above.

85
86 9. [for Recreation and Conservation Funding Board Grant Programs Only] If match is
87 required for the grant, we understand our organization must certify the availability of match at
88 least one month before funding approval. In addition, our organization understands it is
89 responsible for supporting all non-cash matching share commitments to this project should they
90 not materialize.

91
92 10. Our organization acknowledges that if it receives grant funds managed by the
93 Office, the Office will pay us on only a reimbursement basis. We understand reimbursement basis
94 means that we will only request payment from the Office after we incur grant eligible and
95 allowable costs and pay them. The Office may also determine an amount of retainage and hold
96 that amount until all project deliverables, grant reports, or other responsibilities are complete.

97
98 11. [for Acquisition Projects Only] Our organization acknowledges that any property
99 acquired with grant assistance must be dedicated for the purposes of the grant in perpetuity
100 unless otherwise agreed to in writing by our organization and the Office. We agree to dedicate
101 the property in a signed "Deed of Right" for fee acquisitions, or an "Assignment of Rights" for
102 other than fee acquisitions (which documents will be based upon the Office's standard versions
103 of those documents), to be recorded on the title of the property with the county auditor. Our
104 organization acknowledges that any property acquired in fee title must be immediately made
105 available to the public unless otherwise provided for in policy, the Agreement, or authorized in
106 writing by the Office Director.

107
108 12. [for Development, Renovation, Enhancement, and Restoration Projects Only--If
109 our organization owns the project property] Our organization acknowledges that any property
110 owned by our organization that is developed, renovated, enhanced, or restored with grant
111 assistance must be dedicated for the purpose of the grant in perpetuity unless otherwise allowed
112 by grant program policy, or Office in writing and per the Agreement or an amendment thereto.

113
114 13. [for Development, Renovation, Enhancement, and Restoration Projects Only--If
115 your organization DOES NOT own the property] Our organization acknowledges that any property
116 not owned by our organization that is developed, renovated, enhanced, or restored with grant

assistance must be dedicated for the purpose of the grant as required by grant program policies unless otherwise provided for per the Agreement or an amendment thereto.

14. [Only for Projects located in Water Resources Inventory Areas 1-19 that are applying for funds from the Critical Habitat, Natural Areas, State Lands Restoration and Enhancement, Riparian Protection, or Urban Wildlife Habitat grant categories; Aquatic Lands Enhancement Account; or the Puget Sound Acquisition and Restoration program, or a Salmon Recovery Funding Board approved grant] Our organization certifies the following: the Project does not conflict with the Puget Sound Action Agenda developed by the Puget Sound Partnership under RCW 90.71.310.

15. This resolution/authorization is deemed to be part of the formal grant application to the Office.

16. Our organization warrants and certifies that this resolution/authorization was properly and lawfully adopted following the requirements of our organization and applicable laws and policies and that our organization has full legal authority to commit our organization to the warranties, certifications, promises and obligations set forth herein.

This Resolution shall be in full force and effect from and after its adoption and approval.

PASSED BY THE CITY COUNCIL, the _____ day of August 2020.

APPROVED:

Nicola Smith, Mayor

ATTEST/AUTHENTICATED:

Karen Fitzthum, Interim City Clerk

FILED WITH ADMINISTRATIVE SERVICES: 08/XX/20
PASSED BY THE CITY COUNCIL: XX/XX/20
RESOLUTION NUMBER: 2020-xx

CITY COUNCIL ITEM M-3

CITY OF LYNNWOOD Public Works

TITLE: Public Hearing on July 27, 2020: Interim Floodplain Development Regulations Ordinance

DEPARTMENT CONTACT: Derek Fada, Environmental and Surface Water Supervisor

SUMMARY:

The FEMA National Flood Insurance Program (NFIP) was established with the passage of the National Flood Insurance Act of 1968. The NFIP is a federal program enabling property owners in participating communities to purchase flood insurance as protection against flood losses, while requiring state and local governments to enforce floodplain management ordinances that aim to reduce future flood damage. Lynnwood is a participating community and has been for over 30 years.

The City of Lynnwood desires to continue to participate in the NFIP and needed to update its Flood Hazard Area Regulations for consistency with current federal requirements by June 19th, 2020 in order to continue doing so. Due to COVID-19, we could not hold the required public hearing prior to that date. On June 8th, 2020, Council adopted an interim ordinance allowing the City to be compliant with the necessary requirements.

RCW 35A.63.220 and RCW 36.70A. 390 authorized the City Council to immediately adopt interim regulations and interim official controls without first holding a public hearing, which are effective for a period of up to six (6) months, so long as the City Council holds a public hearing on the interim regulations within sixty (60) days of the ordinance's adoption. This public hearing fulfills that requirement.

Staff will schedule another public hearing for adoption of the final regulations once approval from the Washington Department of Commerce is received, the SEPA process is completed, and a public hearing before the Planning Commission is held. We anticipate this to be this fall.

ACTION:

Hold a public hearing at the Council's July 27, 2020 regular meeting on the interim regulations to fulfill the sixty (60) day requirement set forth in the RCW until such time as permanent regulations are adopted.

PREVIOUS COUNCIL ACTIONS:

Interim ordinance 3359 adopted June 8th, 2020.

FUNDING:

There are no budgetary impacts associated with this action.

ADMINISTRATION RECOMMENDATION:

Hold the public hearing as required by the RCW allowing the City to continue to participate in the FEMA Flood Insurance Program.

DOCUMENT ATTACHMENTS

Description:

[Interim Ordinance 3359](#)

Type:

Backup Material



LYNNWOOD
WASHINGTON

ORDINANCE NO. 3359

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, ESTABLISHING INTERIM FLOOD HAZARD AREA REGULATIONS; AMENDING CHAPTER 16.46 OF THE LYNNWOOD MUNICIPAL CODE; SETTING A DATE FOR A HEARING ON THE INTERIM REGULATIONS; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE, AND SUMMARY PUBLICATION.

WHEREAS, the City of Lynnwood has areas designated by the Federal Emergency Management Agency (FEMA) as Special Flood Hazard Areas inundated by a 100-year flood; and

WHEREAS, FEMA requires the City to adopt flood plain management measures and regulations that are consistent with 44 Code of Federal Regulations (CFR) Section 60.3 of the National Flood Insurance Program regulations; and

WHEREAS, consistent with federal requirements at the time, the City adopted Flood Hazard Area regulations, codified at Chapter 16.46 of the Lynnwood Municipal Code, which in part regulate the development of land within the areas designated as Special Flood Hazard Areas; and

WHEREAS, the City of Lynnwood participates in the National Flood Insurance Program (NFIP), allowing those within the City to purchase flood insurance, should they wish; and

WHEREAS, the City of Lynnwood desires to continue to participate in the NFIP, and must update its Flood Hazard Area Regulations for consistency with current federal requirements by June 19th, 2020 in order to do so; and

WHEREAS, adoption of amendments to development regulations are subject to a public hearing process, among other procedural requirements; and

WHEREAS, on March 23, 2020, Governor Inslee issued the "Stay Home, Stay Healthy" proclamation (Proclamation 20-25) prohibiting all people in Washington State from leaving their homes and participating in gatherings of any kind, except for limited activities; and

WHEREAS, the Governor has extended Proclamation 20-25, and has established a four phase re-opening plan, but the four-phase plan is not expected to be fully implemented until mid-July at the earliest; and

WHEREAS, consistent with Proclamation 20-25, Governor Inslee issued Proclamation 20-28, as amended and extended, which prohibits in-person meetings that are subject to the Open Public Meetings Act and places restrictions on the conduct of Open Public Meetings Act meetings for so long as Proclamation 20-28 is in effect; and

WHEREAS, the City needs additional time to complete the procedures, including a public hearing, necessary for the adoption of the permanent amendments to the City's Flood Hazard Area regulations as required by FEMA for participation in the NFIP; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A. 390 authorize the City Council to immediately adopt interim regulations and interim official controls without first holding a public hearing, to be effective for a period of up to six (6) months, so long as the City Council holds a public hearing on the interim regulations within sixty (60) days of the ordinance's adoption; and

WHEREAS, unless the City adopts interim regulations to amend the City's Flood Hazard Area code provisions consistent with federal law, the City's ability to participate in NFIP will lapse and property owners in the City will be unable to obtain certain flood insurance; and

WHEREAS, the City Council adopts the foregoing recitals as its findings of fact justifying the adoption of these interim regulations to protect the public health, safety and welfare of the residents and property owners of the City; and

WHEREAS, the City Council finds that due to COVID-19, an emergency exists and this interim ordinance is necessary for continued participation in the FEMA NFIP until such time as a public hearing can be held; and

WHEREAS, the City Council after due consideration has determined that the interim regulations stated in this Ordinance are in the best interests of the public and necessary for the protection of the public health, safety, and general welfare; now, therefore

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

Section 1: Findings. The recitals set forth above are hereby adopted as the City Council's findings in support of the interim regulations stated in this Ordinance. The City Council may, in its discretion, adopt additional or revised findings at the conclusion of the public hearing referenced in Section 4 below.

Section 2: Amendments. Chapter 16.46 of the Lynnwood Municipal Code is hereby amended to read:

Chapter 16.46
FLOOD HAZARD AREA REGULATIONS

Sections:

16.46.010 Statement of purpose.

16.46.020 Definitions.

16.46.030 General provisions.

16.46.040 Administration.

16.46.050 Provisions for flood hazard protection.

16.46.060 Severability.

16.46.010 Statement of purpose.

A. It is the purpose of this legislation to promote the public health, safety, and general welfare, and to avoid or abate public nuisances, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money and costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
6. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
7. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
8. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

B. Methods of Reducing Flood Losses. In order to accomplish its purposes, this legislation includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging, and other development which may increase flood damage; and
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

16.46.020 Definitions.

Unless specifically defined below, words or phrases used shall be interpreted so as to give them the meaning they have in common usage and to give this legislation its most reasonable application.

“Alteration of watercourse” means any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

“Appeal” means a request for a review of the director of public work’s interpretation of any provision in this chapter or a request for a variance.

“Appeal board” means a three-member board appointed by the mayor to hear and determine appeals.

“Area of shallow flooding” means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow, and AH indicates ponding.

“Area of special flood hazard” means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters “A” or “V”.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the “100-year flood”).

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Coastal high hazard area” means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

“Critical facility” means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use, or store hazardous materials or hazardous waste.

“Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

“Elevated building” means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

“Existing manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted flood plain management regulations.

“Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“Flood” or “flooding” means:

174 1. A general and temporary condition of partial or complete inundation of normally dry
175 land areas from:

176 a. The overflow of inland or tidal waters; ~~and/or~~

177 b. The unusual and rapid accumulation of runoff of surface waters from any
178 source; and/or

179 c. Mudslides (i.e., mudflows) which are proximately caused by flooding as
180 defined in paragraph (1)(b) of this definition and are akin to a river of liquid and
181 flowing mud on the surfaces of normally dry land areas, as when earth is carried
182 by a current of water and deposited along the path of the current.

183 2. The collapse or subsidence of land along the shore of a lake or other body of water as
184 a result of erosion or undermining caused by waves or currents of water exceeding
185 anticipated cyclical levels or suddenly caused by an unusually high water level in a
186 natural body of water, accompanied by a severe storm, or by an unanticipated force of
187 nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and
188 unforeseeable event which results in flooding as defined in paragraph (1)(a) of this
189 definition.

190 "Flood elevation study" means the examination, evaluation and determination of flood hazards
191 and, if appropriate, corresponding water surface elevations, or an examination, evaluation and
192 determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards. Also known as
193 Flood Insurance Study (FIS).

194 "Flood insurance rate map (FIRM)" means the official map on which the Federal Insurance
195 Administrator has delineated both the areas of special flood hazards and the risk premium
196 zones applicable to the community.

197 "Floodplain or flood prone area" means any land area susceptible to being inundated by water
198 from any source. See "Flood or flooding."

199 "Floodplain administrator" the community official designated by title to administer and enforce
200 the floodplain management regulations.

201 "Flood proofing" means any combination of structural and nonstructural additions, changes, or
202 adjustments to structures which reduce or eliminate risk of flood damage to real estate or
203 improved real property, water and sanitary facilities, structures, and their contents. Flood
204 proofed structures are those that have the structural integrity and design to be impervious to
205 floodwater below the Base Flood Elevation.

206 "Floodway" means the channel of a river or other watercourse and the adjacent land areas that
207 must be reserved in order to discharge the base flood without cumulatively increasing the
208 water surface elevation more than a designated height.

209 "Functionally dependent use" means a use which cannot perform its intended purpose unless it
210 is located or carried out in close proximity to water. The term includes only docking facilities,
211 port facilities that are necessary for the loading and unloading of cargo or passengers, and ship
212 building and ship repair facilities, and does not include long term storage or related
213 manufacturing facilities.

214 "Highest adjacent grade" means the highest natural elevation of the ground surface prior to
215 construction next to the proposed walls of a structure.

216 "Historic structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- a. By an approved state program as determined by the Secretary of the Interior, or

- b. Directly by the Secretary of the Interior in states without approved programs.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter found at LMC 16.46.050(B)(1)(b).

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles. The term “manufactured home” does not include a recreational vehicle.

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Mean sea level” for purposes of the National Flood Insurance Program, the vertical datum to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

“New construction” means for the purpose of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

“New manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted flood plain management regulations.

“Recreational vehicle” means a vehicle which is:

1. Built on a single chassis;

2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a substantial improvement, the actual start of construction means the first alteration or any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building or manufactured home including a gas or liquid storage tank that is principally above ground.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial improvement” means any reconstruction, rehabilitation, addition or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include, either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a historic structure provided that the alteration will not preclude the structure’s continued designation as a historic structure.

“Variance” means a grant of relief from the requirements of this legislation which permits construction in a manner that would otherwise be prohibited by this chapter.

“Water dependent” means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

16.46.030 General provisions.

A. Lands to Which This Chapter Applies. This legislation shall apply to all areas of special flood hazards within the jurisdiction of the city of Lynnwood.

B. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administrator in a scientific and engineering report entitled

“The Flood Insurance Study for Snohomish County, Washington and Incorporated Areas,” dated June 19, 2020, as amended, with accompanying flood insurance rate maps as amended, are hereby adopted by reference and declared to be part of this chapter. The flood insurance study and the flood insurance rate map are on file at the city of Lynnwood public works department. The best available information for flood hazard area identification as outlined in LMC 16.46.040(C)(2) shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under LMC 16.46.040(C)(2).

C. Penalties for Noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city of Lynnwood from taking such lawful action as is necessary to prevent or remedy any violation.

D. Abrogation and Greater Restrictions. This legislation is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. Interpretation. In the interpretation and application of this legislation, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under law.

F. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This legislation does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This legislation shall not create liability on the part of the city of Lynnwood, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from the reliance on this legislation or any administrative decision lawfully made thereunder.

16.46.040 Administration.

A. Establishment of Development Permit.

1. Development Permit Required. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in LMC 16.46.030 (B). The permit shall be for all structures including manufactured homes, as set forth in LMC 16.46.020, Definitions, and for all development including fill and other activities, also as set forth in LMC 16.46.020, Definitions.
2. Application for Development Permit. Application for a development permit shall be made on forms furnished by the city of Lynnwood and may include but not be limited

to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage or materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- a. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- b. Proposed elevation in relation to mean sea level to which any structure will be floodproofed;
- c. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in LMC 16.46.050(B)(2); and
- d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

3. No development permit will be issued for construction or development in Zones V or VE.

B. Designation of the Public Works Director. The city director of public works or his designee is hereby appointed to administer, implement and enforce this legislation by granting or denying development permit applications in accordance with its provisions.

C. Duties and Responsibilities of the Public Works Director. Duties of the director of public works shall include, but not be limited to:

1. Permit Review.

- a. Review all development permits to determine that the permit requirements of this chapter have been satisfied;
- b. Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required;
- c. Review all development permits to determine the site is reasonably safe from flooding; and
- d. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of LMC 16.46.050(C)(1) are met.

2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with LMC 16.46.030(B), Basis for Establishing the Areas of Special Flood Hazard, the public works director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer LMC 16.46.050(B), Specific Standards, and 16.46.050 (C), Floodways.

3. Information to be Obtained and Maintained.

- a. Obtain and maintain the actual (as-built) elevation of the lowest floor, including basement, of all new or substantially improved structures, and whether or not the structure contains a basement;
- b. For all new or substantially improved floodproofed structures:
 - i. Verify and record the actual elevation to which the structure was floodproofed; and

- 392 ii. Maintain the floodproofing certifications required in subsection
393 (A)(2)(c) of this section; and
394 c. Maintain for public inspection all records pertaining to the provisions of this
395 legislation.
- 396 4. Alteration of Watercourses.
- 397 a. Notify adjacent communities and the Washington State Department of
398 Ecology prior to any alteration or relocation of a watercourse, and submit
399 evidence of such notification to the Federal Insurance Administrator; and
400 b. Assure that the flood-carrying capacity of the altered or relocated portion of
401 said watercourse is maintained.
- 402 5. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact
403 location of the boundaries of the areas of special flood hazards (for example, where
404 there appears to be a conflict between a mapped boundary and actual field conditions).
405 The person contesting the location of the boundary shall be given a reasonable
406 opportunity to appeal the interpretation as provided in subsection (D) of this section.
- 407 6. Base Flood Elevations may increase or decrease resulting from physical changes
408 affecting flooding conditions. As soon as practicable, but not later than six months after
409 the date such information becomes available, the Floodplain Administrator shall notify
410 the Federal Insurance Administrator of the changes by submitting technical or scientific
411 data in accordance with Volume 44 Code of Federal Regulations Section 65.3. Such a
412 submission is necessary so that upon confirmation of those physical changes affecting
413 flooding conditions, risk premium rates and floodplain management requirements will
414 be based upon current data.
- 415 7. Notify the Federal Insurance Administrator in writing of acquisition by means of
416 annexation, incorporation or otherwise, of additional areas of jurisdiction
- 417 D. Variance Procedure.
- 418 1. Appeal Board. The mayor shall appoint members to the three-member appeal board
419 as needed. Members shall have the educational and mechanical background and
420 experience to hear and determine appeals arising from this legislation.
- 421 a. The appeal board shall hear and decide appeals and requests for variances
422 from the requirements of this legislation;
423 b. The appeal board shall hear and decide appeals when it is alleged there is an
424 error in any requirement, decision or determination made by the director of
425 public works in the enforcement of this legislation;
426 c. Those aggrieved by the decision of the appeal board may appeal such decision
427 to the Snohomish County superior court as provided by law;
428 d. In passing upon such applications, the appeal board shall consider all technical
429 evaluations, all relevant factors, standards specified in other sections of this
430 legislation; and
- 431 i. The danger that materials may be swept onto other lands to the injury
432 of others;
433 ii. The danger to life and property due to flooding or erosion damage;
434 iii. The susceptibility of the proposed facility and its contents to flood
435 damage and the effect of such damage on the individual owner;

- iv. The importance of the services provided by the proposed facility to the community;
 - v. The necessity to the facility of a waterfront location, where applicable;
 - vi. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - vii. The compatibility of the proposed use with existing and anticipated development;
 - viii. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
 - ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - x. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
 - xi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges;
- e. Generally, the only condition under which a variance may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i) through (xi) in subsection (D)(1)(d) of this section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases;
- f. Upon consideration of the factors of subsection (D)(1)(d) of this section and the purposes of this legislation, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this legislation;
- g. The director of public works shall maintain the records of the appeal actions and report any variances to the Federal Insurance Administration upon request.

2. Conditions for Variances.

- a. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (1) through (11) in subsection (D)(1)(d) of this section have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases;
- b. Variances may be issued for the repair, rehabilitation, or restoration of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure;

- c. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result;
- d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
- e. Variance shall only be issued upon:
- i. A showing of good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances;
- f. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare;
- g. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection (D)(2)(a) of this section, and otherwise complies with LMC 16.46.050(A) and (B);
- h. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that the issuance of a variance to construct a structure with a lowest floor elevation below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and that such construction below the base flood elevation (BFE) increases risks to life and property.

16.46.050 Provisions for flood hazard protection.

A. General Standards. In all areas of special flood hazards, the following standards are required:

1. Anchoring.

- a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- b. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors. (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques.)

2. Construction Materials and Methods.

- 523 a. All new construction and substantial improvements shall be constructed with
524 materials and utility equipment resistant to flood damage.
525 b. All new construction and substantial improvements shall be constructed using
526 methods and practices that minimize flood damage.
527 c. Electrical, heating, ventilation, plumbing, and air conditioning equipment and
528 other service facilities shall be designed and/or otherwise elevated or located so
529 as to prevent water from entering or accumulating within the components
530 during conditions of flooding.

531 3. Utilities.

- 532 a. All new and replacement water supply systems shall be designed to minimize
533 or eliminate infiltration of flood waters into the system;
534 b. Water wells shall be located on high ground that is not in the floodway;
535 c. New and replacement sanitary sewage systems shall be designed to minimize
536 or eliminate infiltration of flood waters into the systems and discharge from the
537 systems into flood waters; and
538 d. On-site waste disposal systems shall be located to avoid impairment to them
539 or contamination from them during flooding.

540 4. Development Proposals.

- 541 a. All development proposals, including subdivisions and manufactured home
542 parks, shall be consistent with the need to minimize flood damage;
543 b. All development proposals, including subdivisions and manufactured home
544 parks, shall have public utilities and facilities such as sewer, gas, electrical, and
545 water systems located and constructed to minimize flood damage;
546 c. All development proposals, including subdivisions and manufactured home
547 parks, shall have adequate drainage provided to reduce exposure to flood
548 damage; and
549 d. Where base flood elevation data has not been provided or is not available
550 from another authoritative source, it shall be generated for all development
551 proposals, including subdivisions and manufactured home parks, greater than 50
552 lots or five acres (whichever is the lesser).

553 5. Review of Building Permits. Where elevation data is not available, either through the
554 Flood Insurance Study or from another authoritative source, LMC 16.46.040(C)(2),
555 applications for building permits shall be reviewed to assure that proposed construction
556 will be reasonably safe from flooding. The test of reasonableness is a local judgment and
557 includes historical data, high water marks, photographs of past flooding, etc., where
558 available. Failure to elevate at least two feet above the highest adjacent grade in these
559 zones may result in higher insurance rates.

560 B. Specific Standards. In all areas of special flood hazards where base flood elevation data has
561 been provided as set forth in LMC 16.46.030(B), Basis for Establishing the Areas of Special Flood
562 Hazard or LMC 16.46.040(C)(2), Use of Other Base Flood Data, the following provisions are
563 required:

564 1. Residential Construction.

- 565 a. New construction and substantial improvement of any residential structure
566 shall have the lowest floor, including basement, elevated to or one foot or more
567 above base flood elevation.
- 568 b. Fully enclosed areas below the lowest floor that are subject to flooding are
569 prohibited, or if used solely for parking, access or storage, shall be designed to
570 automatically equalize hydrostatic flood forces on exterior walls by allowing for
571 the entry and exit of floodwaters. Designs for meeting this requirement must
572 either be certified by a registered professional engineer or architect or must
573 meet or exceed the following minimum criteria:
- 574 i. A minimum of two openings having a total net area of not less than one square
575 inch for every square foot of enclosed area subject to flooding shall be provided.
- 576 ii. The bottom of all openings shall be no higher than one foot above grade.
- 577 iii. Openings may be equipped with screens, louvers, or other coverings or
578 devices; provided, that they permit the automatic entry and exit of floodwaters.
- 579 2. Nonresidential Construction. New construction and substantial improvement of any
580 commercial, industrial or other nonresidential structure shall either have the lowest
581 floor, including basement, elevated to the level of one foot or more above the base
582 flood elevation; or, together with attendant utility and sanitary facilities, shall:
- 583 a. Be floodproofed so that below one foot above the base flood level the
584 structure is watertight with walls substantially impermeable to the passage of
585 water;
- 586 b. Have structural components capable of resisting hydrostatic and
587 hydrodynamic loads and effects of buoyancy;
- 588 c. Be certified by a registered professional engineer or architect that the design
589 and methods of construction are in conformance with accepted standards of
590 practice for meeting provisions of this subsection based on their development
591 and/or review of the structural design, specifications and plans. Such
592 certifications shall be provided to the official as set forth in LMC 16.46.040
593 (C)(3)(b);
- 594 d. Nonresidential structures that are elevated, not floodproofed, must meet the
595 same standards for space below the lowest floor as described in subsection
596 (B)(1)(b) of this section;
- 597 e. Applicants floodproofing nonresidential buildings shall be notified that flood
598 insurance premiums will be based on rates that are one foot below the
599 floodproofed level (e.g., a building floodproofed to one foot above the base
600 flood level will be rated as at the base flood level).
- 601 3. Critical Facility. Construction of new critical facilities shall be, to the extent possible,
602 located outside the limits of the base flood plain. Construction of new critical facilities
603 shall be permissible within the base flood plain if no feasible alternative site is available.
604 Critical facilities constructed within the base flood plain shall have the lowest floor
605 elevated to three feet or more above the level of the base flood elevation at the site.
606 Floodproofing and sealing measures must be taken to ensure that toxic substances will
607 not be displaced by or released into flood waters. Access routes elevated to or above

the level of the base flood plain shall be provided to all critical facilities to the extent possible.

4. Manufactured Homes. All manufactured homes to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

a. All manufactured homes to be placed or substantially improved on sites:

- i. Outside of a manufactured home park or subdivision;
- ii. In a new manufactured home park or subdivision;
- iii. In an expansion to an existing manufactured home park or subdivision;
- or
- iv. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

b. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the above manufactured home provisions be elevated so that either:

- i. The lowest floor of the manufactured home is elevated one foot or more above the base flood elevation; or
- ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

5. Recreation Vehicles. Recreational vehicles placed on sites are required to either:

- a. Be on the site for fewer than 180 consecutive days;
- b. Be fully licensed and ready for highway use, on their wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
- c. Meet the requirements of subsection (B)(4) of this section and the elevation and anchoring requirements for manufactured homes.

C. Floodways. Located within areas of special flood hazard established in LMC 16.46.030(B) are areas designed as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- 1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachments shall

not result in any increase in flood levels during the occurrence of the base flood discharge.

2. Construction or reconstruction of residential structures is prohibited within designated floodways, except for:

a. Repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and

b. Repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either:

i. Before the repair, or reconstruction, is started; or

ii. If the structure has been damaged, and is being restored, before the damage occurred.

Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or to structures identified as historic places shall not be included in the 50 percent.

3. If subsection (C)(1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section, Provisions for Flood Hazard Reduction.

D. Wetlands Management. To the maximum extent possible, avoid the short- and long-term adverse impacts associated with the destruction or modification of wetlands, especially those activities which limit or disrupt the ability of the wetland to alleviate flooding impacts. The following process should be implemented:

1. Review proposals for development within base flood plains for their possible impacts on wetlands located within the flood plain.

2. Ensure that development activities in or around wetlands do not negatively affect public safety, health, and welfare by disrupting the wetlands' ability to reduce flood and storm drainage.

3. Request technical assistance from the Department of Ecology in identifying wetland areas. Existing wetland map information from the National Wetlands Inventory (NWI) can be used in conjunction with the community's FIRM to prepare an overlay zone indicating critical wetland areas deserving special attention

E. AE Zones with Base Flood Elevations but no Floodways. In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

F. Zone VE Restrictions. New structures, substantial improvements, and recreational vehicles are prohibited in the VE zone. Man-made alteration of sand dunes is prohibited in Zone VE on the community's FIRM, which would increase potential flood damage.

16.46.060 Severability.

If any section, clause, sentence, or phrase of this Chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Chapter.

Section 3: Duration of Interim Regulations. The interim regulations established in Section 2 above shall be in effect for a period of six (6) months from the date of this Ordinance is adopted (to and through December 8, 2020), and shall automatically expire on that date unless repealed, modified, or extended after subsequent public hearing and entry of appropriate findings of fact as provided in RCW 35A.63.220 and RCW 36.70A.390, or unless a final ordinance is adopted before that date amending the Lynnwood Municipal Code and rescinding this interim Ordinance.

Section 4: Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council shall hold a public hearing on this interim ordinance within sixty (60) days of its adoption. In order to comply, a public hearing shall be set no later than July 27th, 2020.

Section 5: 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 6: Effective Date: This Ordinance or an approved summary thereof consisting of its title shall be published in the City's official newspaper of record and shall take effect and be in full force five days following its publication.

PASSED BY THE CITY COUNCIL THIS 8th day of June, 2020, and signed in authentication of its passage this 8th day of June, 2020.

APPROVED:



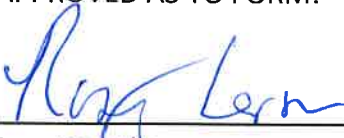
Nicola Smith, Mayor

ATTEST/AUTHENTICATED:



Karen Fitzthum, City Clerk

APPROVED AS TO FORM:



Rosemary Larson, City Attorney

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ADOPTED BY THE CITY COUNCIL:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NUMBER:

CITY COUNCIL ITEM FYI-1
CITY OF LYNNWOOD
Parks, Recreation, & Cultural Arts

TITLE: FYI: EGGS-plore Lynnwood Auction Proceeds

DEPARTMENT CONTACT: Fred Wong, Sarah Olson, Lynn D. Sordel

SUMMARY:

The EGGS-plore auction is the culmination of the 3rd annual EGGS-plore Lynnwood program, which the City's Healthy Communities project run in partnership with the Lynnwood Parks & Recreation Foundation (LPR Foundation). The EGG Hunt portion in March 2020 was immediately impacted by business/non-profit closures due to COVID-19. The originally scheduled exhibit of EGGS at City Hall, and the June in-person party/auction, were canceled. As a result, we elected to take the auction online which generated \$1,110. These proceeds will be donated to the Lynnwood Food Bank by the LPR Foundation. EGGS-plore provided a unique artist opportunity to ten regional artists, a fun (but short this year) EGG Hunt for the community, and a chance to give back to our local needs.

Included here is our promotional video for the EGGS auction
<https://www.facebook.com/136264276387852/videos/270487477650831>

We raised \$1110, to be donated to the Lynnwood Food Bank. The LPR Foundation will issue a check, and we'll schedule a small check presentation at the food bank (date TBD).

Here are some fun numbers:

- Raised \$1110; we estimate this is 70% more than what a LIVE auction would have brought in (by comparing with the results of LIVE auctions of the previous 2 years).
- 10-day auction
- 10 eggs (ALL sold)
- 28 bidders
- 65 bids
- Auction was viewed 2010 times.

DOCUMENT ATTACHMENTS

Description:

Type:

No Attachments Available