

**Summary of Regulation Amendments:**

- ESSB 5290 required changes:
  - Determination of application of completeness
  - Permit review timelines
  - Notice of application
  - Review timeline exemptions
  
- Ease of use/improve clarification and predictability:
  - Minimum application submittal standards
  - Time clocks for return of requested information
  - Tiered review/approval authority approach to critical are variances based on % standard deviation requested
  - Allowance of new meeting type “staff consultations” that could then be included in our fee structure beyond preapplication conferences
  - Minor and major approved permit modifications, criteria and appropriate review/approval process
  - Review/approval authority table
  - Permit expirations
  - Public notification
  - Notice of decision
  
- Housekeeping edits for internal consistency in 18A.30

## Chapter 18A.20 ADMINISTRATION

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**Commented [AS1]:** Intent to provide clarification and transparency on process to modify approved permits. Additionally consistency revisions may be necessary in definitions, etc. on modifications

- 18A.20.240 Health or safety improvements.
- 18A.20.248 Nonconforming parking lots.
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- 18A.20.300 Public notice procedures.
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**Article IV.  
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- 18A.20.400 Specific appeal procedures.
- 18A.20.410 Appeals to hearing examiner.
- 18A.20.420 Reconsideration of hearing examiner decision.
- 18A.20.430 Clarification of hearing examiner decision.
- 18A.20.440 No appeals to City Council.

**18A.20.005 Definitions.**

See LMC [18A.10.180](#) for definitions relevant to this chapter. [Ord. 726 § 2 (Exh. B), 2019.]

## Article I. Administration

### 18A.20.010 Applications.

The Director shall provide applications forms for amendments to the comprehensive plan and the development code and all project permit applications to be used for all matters which may come before the Department, Hearing Examiner, Planning Commission and City Council. The Department will prepare and prescribe the type of information to be provided in the application or petition by the applicant. No application shall be deemed complete unless it complies with such requirements and payment of applicable fees.

§ 2 (Exh. B), 2019.]

### 18A.20.015 Pre-application conferences and application assistance.

The Department may provide assistance for various levels of technical and procedural requirements of Lakewood Municipal Codes. Assistance is subject to applicable fees in the adopted fee schedule. Requests for either preapplication conferences and/or staff consultation must submit a completed form provided by the Department with all information required and payment of fees. Failure to provide all pertinent information may prevent the Department of Planning and Public Works from identifying all applicable technical and procedural requirements or providing the most effective meeting.

Preapplication meeting. The purpose of the preapplication conference is to acquaint the applicant with the technical and procedural requirements of the Lakewood Municipal Code and the applicable elements of the comprehensive plan in relation to the proposed project. [Preapplication conferences are optional but encouraged](#) for all permits types described in LMC [18A.20.080](#). The Director, at their discretion, can require any project to have a preapplication conference based on complexity of the project proposal and prior to application submittal. The Department shall provide a written summary of the project proposal shared and applicable development code requirements.

It is impossible for the conference to be an exhaustive review of all potential issues. The discussion at the conference or the information form given to the applicant shall not bind or prohibit the City's future application or enforcement of the applicable law; rather, it is intended to offer the applicant guidance in preparing a development proposal for submittal. A preapplication conference may also be initiated by an applicant for a project where technical assistance is desired.

Staff Consultations. Applicants may request an informal meeting to discuss project feasibility and/or applications under review. It is the responsibility of the applicant to take notes. Fees associated with a staff consultation shall be in accordance with the adopted fee schedule.

### 18A.20.020 Application fees.

A. *Payment.* Application fees as established by the City and shall be paid to the Department upon the filing of any application or petition. An application shall not be deemed complete nor go under review without payment of applicable fees.

**Commented [AS2]:** RCW 36.70B.160 encourages voluntary pre-apps.

B. *Official Fee Schedule.* Fees for the review and processing of applications or permits pursuant to this title shall be identified on the official fee schedule for the City, adopted by the City Council. [Ord. 726 § 2 (Exh. B), 2019.]

**18A.20.030 Complete application.**

A. *Content.* The City of Lakewood permit applications and forms shall specify the requirements necessary for a complete application pursuant to applicable development regulations. The Director shall be responsible for updating applications and forms as necessary. An application shall be submitted electronically with Lakewood's Planning and Public Works Department. Such applications shall specify the content necessary for timely and orderly processing of each project permit application pursuant to LMC [18A.20.050](#).

The Department Director or their designee shall review applications for completeness prior to acceptance and commencing review. An application shall be considered complete, unless otherwise determined by the Department, when it contains the following:

1. Signatures for legally authorized agent and landowner.
2. Parcel identification.

Required documents, plans, site plans and application forms signed by the applicant.

3. Detailed description of the proposed project and existing easements.
4. Related studies and reports associated with the project application.
5. For all land division actions, alterations or adjustments to existing land divisions, a completed land survey of the perimeter of the site per the application requirements of LMC Title 17 Subdivisions.
6. A completed State Environmental Policy Act checklist, if required.
7. Payment of all applicable fees in accordance with LMC 18A.20.020. In the event of insufficient funds, the application submittal shall expire.

B. *Interior Alterations.* Applications for interior alterations shall not require a site plan in accordance with RCW 36.70B provided that the interior alterations do not result in the following:

1. Alteration of existing egress points from the facility/structure.
2. Additional dwelling unit, sleeping quarters or bedrooms.
3. Nonconformity with federal emergency management agency substantial improvement thresholds.
4. Increase the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems.
5. Any change of use that requires changes to the existing site layout or building footprint.

6. Frontage or site development improvements.

Pursuant to LMC Title 15 Buildings and Construction, nothing in this section exempts interior alterations from applicable building, plumbing, mechanical, fire or electrical codes.

[Ord. 726 § 2 (Exh. B), 2019.]

**18A.20.040 Consolidated review.**

Pursuant to RCW [36.70B.060](#) and [36.70B.120](#), an applicant may request to the Department Director to consolidate all project related permit applications related to the same proposal to provide an integrated process. Such a request shall be indicated by the applicant in writing and upon submission of all complete applications and payment of fees pursuant to LMC 18A.20.050. Upon determination of application completeness, all consolidated applications shall be processed as one application with the final decision by the appropriate decision authority noted in LMC 18A.20.080. The time period for a final decision shall be the longest of the application permit time periods as established in LMC 18A.20.050(D). To the extent possible, SEPA review, if applicable, shall be combined and integrated in project application review. [Ord. 726 § 2 (Exh. B), 2019.]

**18A.20.050 Determination of completeness, notice and time periods.**

A. *Determination of Complete Application.* An application shall be deemed complete by the Department when it meets the minimum technical submission requirements in LMC 18A.20.030. Once deemed complete, the Department reserves the right to request additional information and condition a project as part of the application review process to ensure compliance with applicable development regulations.

B. *Notice of Completeness.* The Department shall provide a written notice within twenty-eight (28) calendar days of the date of receipt of any application submittal stating whether the application is complete or incomplete in conformance to LMC 18A.20.050. To the extent known, the Department shall identify any other governmental agencies known to have jurisdiction over the proposal. If an application is incomplete, the Department shall provide written notice to the applicant of any deficiencies pursuant to section C. In accordance to RCW 36.70B.070, if the Department fails to provide notice that an application is complete or incomplete, the application shall be deemed technical complete on the 29th day after submittal and must go under review following payment of fees. The Department reserves the right to request additional information and/or condition a project permit to ensure compliance with applicable development regulations.

C. *Incomplete Application.* When an application is determined to be incomplete, the Department shall identify, in writing, the specific information necessary to constitute a complete application.

1. Any information necessary to complete or to supplement an application must be submitted within ninety (90) calendar days of the date of the notice describing such deficiency. If the applicant does not submit the required information within a ninety (90) day period, the project permit application shall automatically expire.
2. Prior to the expiration date, the applicant may request, in writing, to the Department, an extension to provide the required information. The Department may grant one additional ninety (90) calendar day extension if it is determined that the required studies or information warrants more time.
3. Within fourteen (14) calendar days after an applicant has submitted to the Department additional information identified as being necessary for a complete application, the Department shall notify the applicant whether the application is complete or what additional information is necessary. If additional information is necessary, the applicant shall submit the required information within a ninety (90) calendar day period. No additional extensions will be granted.

D. *Review Types and Time Period.* The review and processing of project permit applications shall result in a decision being rendered within time limits set forth below.

1. Type I: Type I permit decisions are projects reviewed administratively which do not require public notice or a public hearing. The time period for issuing a final decision is sixty-five (65) calendar days. The appropriate decision authority can approve, approve with conditions, deny or modify.
2. Type II: Type II permit decisions are projects reviewed administratively which do require a public notice but does not require a public hearing. The time period for issuing a final decision is one hundred (100) calendar days. The appropriate decision authority can approve, approve with conditions, deny or modify.
3. Type III: Type III permits are projects which requires both a public notice and hearing. The time period for issuing a final decision is one hundred and seventy (170) calendar days. The appropriate decision authority can approve, approve with conditions, deny or modify.
4. Type IV: Type IV are not project permits. Type IV decisions are administrative clarifications not subject to a public notice, public hearing nor permit review timelines established in Chapter 36.70B RCW.
5. Type V: Type V permits are legislative actions relating to the Lakewood Comprehensive Plan, subarea plans, development regulations and the Shoreline Master Program. Public notice and public hearings before the Lakewood Planning Commission and City Council may be required in state laws and agency rulemaking. The responsibilities for review, processing and associated time periods are established in RCW 36.70A, RCW 90.58, RCW 43.21 and LMC Chapter 18A.30 Article I. Type V decisions are not subject to permit review timelines established in Chapter 36.70B RCW.

**Commented [AS3]:** Redundant as covered in revised section C

**Commented [AS4]:** Moved after Review Types and Time Period for logical flow.

**Commented [AS5]:** @Jeff and Current Planning Team: With max timeline for issuing a decision this means (outside of determination of completeness) our review clock for 1st cycle review is roughly 15-20 calendar days. If a request for information is needed and info resubmitted, review cycle #2, 15-20 days. If a second request for information is needed/resubmitted, the 3rd cycle of review (and hopefully last) cannot exceed more than 25 days to issue some decision.

**Commented [AS6]:** Similar to Type 1, we need to establish internal review targets on the permit as a whole, not just for planning and environmental review steps to meet the 100 day decision point. For example, 1st Review Cycle review target could be max review time internal 30-45 days, 2nd Review Cycle (if needed) 30 days and if needed 3rd Review Cycle 25 days.

**Commented [AS7]:** Before throwing our internal review targets on Type 3, what is the current timeframes to get something on the Hearings Examiner calendar? Know we don't have a lot of uses that trigger a CUP, but if we're looking at establishing a standard 14 day notice of HEX public hearing, that means all review cycles (1-3) must be completed/conditions ready for inclusion into the staff report, etc by no later than 156 calendar days. That is cutting it close to issue final decision by day 170. But for discussion purposes, if we break that out in review cycles that would be roughly 1st Cycle no more than 40-50 days, 2nd Cycle no more than 40 days and 3rd, no more than 30 days. That gives us roughly additional 36 days to get through HEX, issue NOD, etc on the back end which adds flexibility for holidays, leave, etc. Welcome more discussion as we establish internal review targets to achieve the mandated review/decision deadlines.

F. *Notice of Delayed Decision.* If the Department is unable to issue its final decision within the time periods listed for Type I, II and III permits, the Department shall provide written notice to the applicant. The notice shall include a statement of reasons why the time period has not been met and an estimated date for issuance of a final decision.

H. *Complete Applications Requiring Responses to Corrections or Additional Information.* When a complete application requires corrections or additional information, the Department shall identify, in writing, the specific correction or information necessary to continue review.

1. When corrections or additional information is required, the applicant shall have ninety (90) calendar days from the date of the written notification to submit all required corrections or information to the Department. If the applicant does not submit all required corrections or information within the ninety (90)day period, the project permit application shall automatically expire.
2. Prior to the expiration date, the applicant may request, in writing, an extension to provide the required information. The Director may grant up to two (2) ninety (90)day extensions if it is determined that the required information warrants additional time. Financial hardship shall not be considered for extensions of deadlines.
3. The Director may provide extensions beyond the two ninety-day extensions when such extension is necessary to accommodate review or comment by another local, state or federal agency or private or public utility district/provider (collectively "agency").
4. If the agency is reviewing the project, the extension must be supported by the agency, must be the minimum needed by the agency for review, the agency must indicate that all necessary materials have been provided for their respective review, and the agency must provide a date by which they will complete their review.
5. If the agency is nonresponsive to an applicant's need for additional information or corrections, the Department shall, in consultation with the applicant, temporarily waive the expiration deadline and associate review time period, or in the event of minor information or corrections needed, defer the information or correction to a subsequent and related project permit application.
6. Applications that expire shall be held for sixty (60) calendar days; after that time, they shall be voided. The Department Director shall have the discretion to refund fees paid on expired applications in accordance with the Department's adopted fees.
7. If a project for which an application has been submitted becomes the subject of formal mediation or arbitration, an additional extension to the time frame may be requested and granted. The time frame for decision shall consider the date of conclusion of mediation or arbitration.
8. Expired applications will not be further processed and reviewed.

I. *Time Period Exemptions.* The time periods for issuing a decision on complete applications do not include:

**Commented [AS8]:** @ Silva Add applicant can voluntarily suspend application



1. The time in which the Department determines whether the application is deemed complete.
2. Type I and Type II approvals, categorically exempt from SEPA or for which environmental review has been completed in connection with another project.
3. Time periods to process a permit shall start over if an applicant proposes a change in use that adds or removes commercial or residential elements from the original application that would make the application fail to meet the determination of application completeness in LMC 18A.20.050.
4. Any period during which the applicant has been requested by the Department to correct plans, perform studies or provide additional information requested by the Department.
5. If the Department determines that additional information submitted by the applicant under subsection (1)(2) of this section is insufficient, the Department shall notify the applicant of the deficiencies and the procedures of subsection (1)(2) shall apply as if a new request for information has been made.
6. Any period after an administrative appeal is filed until the administrative appeal is resolved and any additional time period provided by the administrative appeal has expired.
7. Any extension of time mutually agreed upon by the applicant and the Department. Requests to suspend review will be afforded six (6) months to restart review before an application is deemed abandoned and expired. An application expired due to suspension can be reactivated if still within the same code cycle.
8. The time required to prepare and issue an Environmental Impact Statement (EIS) in accordance with the State Environmental Policy Act.
9. Public agency capital projects.
10. The application is to rectify a code violation.
10. In the event of an emergency which is declared by federal, state or local authorities.
11. Requires a Comprehensive Plan, Sub-Area Plan, Shoreline Master Program or development regulation amendment.
12. Building permit applications.
13. Construction/site development and rights-of-way applications.
14. Shoreline permits requiring final decision by the Washington State Department of Ecology or other federal or state agency.
15. A variance, deviation, exception or adjustment to minimum standards as required under the LMC.

J. The City shall submit an annual application timeline performance report(s) in accordance with RCW 36.70B.080.

[Ord. 794 § 2 (Exh. A), 2023; Ord. 789 § 2 (Exh. A), 2023; Ord. 726 § 2 (Exh. B), 2019.]

**Commented [AS9]:** Called out specifically in ESSB 5290

**Commented [AS10]:** Cross check this before final draft

**Commented [AS11]:** Same cross check before final draft

**Commented [AS12]:** @Jeff should we be requesting a reactivation fee? We currently do not assess this fee type but know you are looking at them for the 25-26 biennium budget.

**Commented [AS13R12]:** Add reactivation fee per Jeff

**Commented [AS14]:** A draft EIS is required before the final EIS is issued due to required comment periods, agency and tribe notifications, etc.

**Commented [AS15]:** Added a couple more exemptions. @Jeff, welcome some feedback.

**Commented [AS16R15]:** Also, consider exempting shoreline permits as RCW 36.70B while focused on land use and environmental permits but for jurisdictions planning under GMA. The SMA is a separate statute.

**18A.20.060 Project application revisions.**

A. If, the Director determines the content of a complete application is so substantially revised by an applicant, either voluntarily or to conform with applicable standards and requirements, that such revised proposal constitutes a substantially different proposal than that originally deemed complete, the Director shall deem the revised proposal to be a new application and associated time periods set forth in LMC 18A.20.050 shall restart. The revised project application shall be subject to all laws, regulations, and standards in effect on the date of receipt of such complete substantial revision.

B. In reaching a decision whether a revision is substantial, the Director shall consider the relative and absolute magnitude of the revision, the environmental sensitivity of the site, any changes in location of significant elements of the project and their relation to public facilities, surrounding lands and land uses and the stage of review of the proposal. Lesser revisions that would not constitute substantial revisions during early stages of review may be substantial during later stages due to the reduced time and opportunity remaining for interested parties to review and comment upon such changes. Written notice of such determination of substantial revision shall be provided to the applicant and all parties of record.

**18A.20.080 Review and approval authorities.**

The following table and generalized flowchart describes permit types, the process and the final decision authorities. See LMC [18A.20.400](#) et seq. for appeals. When separate applications are consolidated at the applicant’s request and approved by the Department Director, the final decision shall be rendered by the highest authority designated for any part of the consolidated application.

Application Type	Review & Approval Authority	Type I	Type II	Type III	Type IV	Type V
<b>Planning (Titles 17, 18A, 18B and 18C)</b>						
Administrative Conditional Use	PPW		X			
Administrative Nonconforming Determination	PPW	X				
Binding Site Plan	PPW		X			
Binding Site Plan Major Modification	PPW		X			
Binding Site Plan Minor Modification	PPW	X				
Boundary Line Adjustment	PPW	X				
Comprehensive Map Amendment, area-wide	PC/CC					X
Comprehensive Map Amendment, site specific	PC/CC					X
Conditional Use	HE			X		
Consultation Meeting	PPW	X				
Cottage housing	PPW		X			
Design Review	PPW	X				

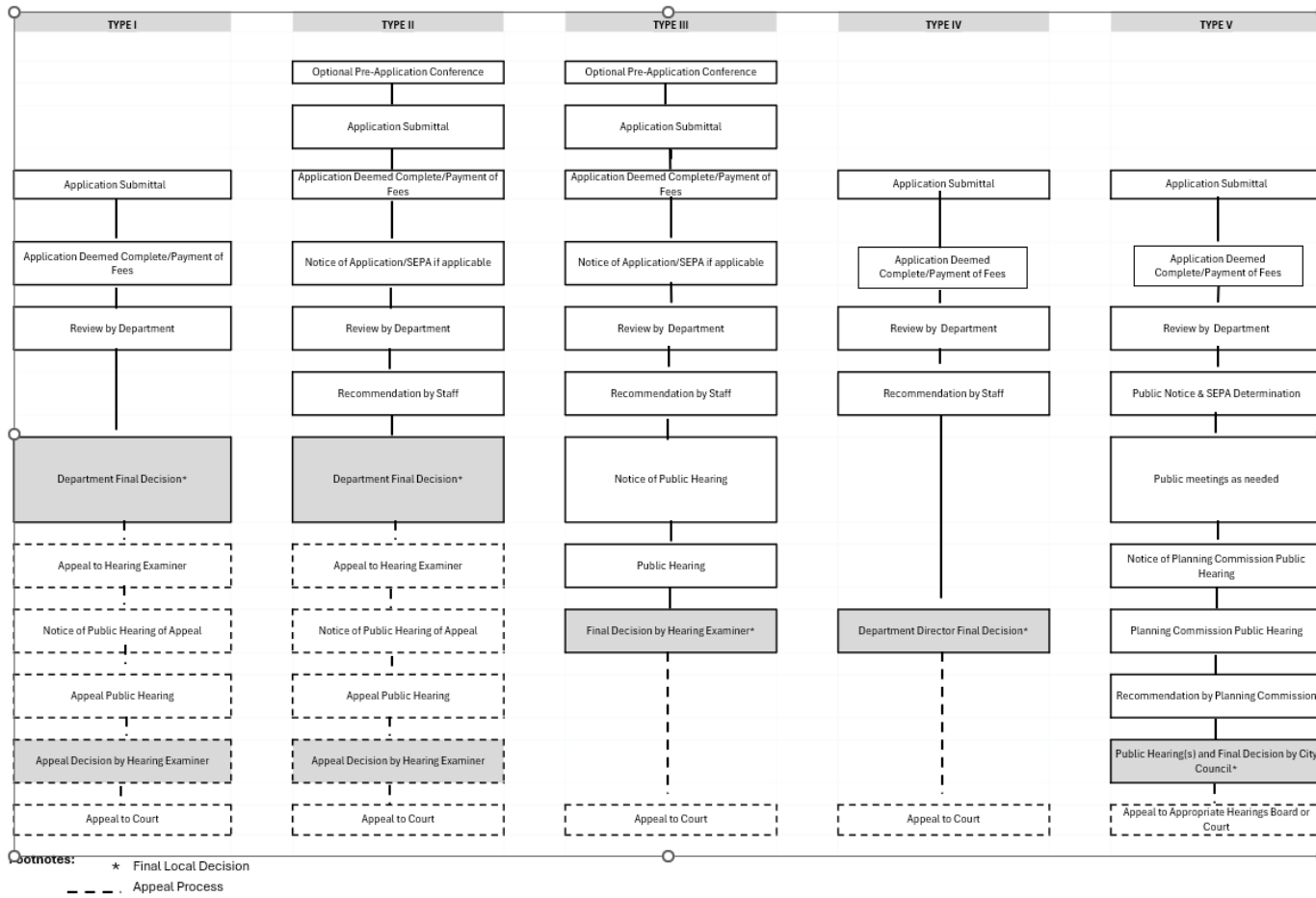
Application Type	Review & Approval Authority	Type I	Type II	Type III	Type IV	Type V
Development Agreement	CC					X
Directors Interpretation	D	X				
Emergency housing	PPW	X				
Emergency shelter	PPW	X				
Home occupation	PPW	X				
Final Plat Alteration	PPW					
Final Plat (10 lots or more)	PPW	X				
Final Short Plat (9 lots or less)	PPW	X				
Foster care facility	PPW	X				
Minor modification to Approved Permit	PPW	X				
Permanent Supportive Housing	PPW	X				
Planned Development District	HE			X		
Plat Alteration	HE			X		
Pre-application conference	PPW	X				
Preliminary plat (10 lots or more)	HE			X		
Preliminary plat major modification	HE			X		
Preliminary plat minor modification	PPW		X			
Preliminary short plat (9 lots or less)	PPW		X			
Preliminary short plat major modification	PPW		X			
Preliminary short plat minor modification	PPW	X				
Public facilities master plan	HE			X		
Similar use determination	D	X				
Rezone, area-wide	PC/CC					X
Rezone, site specific	PC/CC					X
Small Cell Wireless	PPW	X				
Special Needs Housing	PPW	X				
Temporary Use	PPW	X				
Time extension	PPW	X				
Transfer of Development Rights	PPW	X				
Transitional housing	PPW	X				
Tree Removal/Emergency Tree Removal	PPW	X				
Zoning Amendment (text only)	CC					X
Zoning Certification	PPW	X				

**Commented [AS17]:** See conflicting approval authorities in code and also appeal section refers to appeals going to City council versus Hearings examiner. What is the current process?

Application Type	Review & Approval Authority	Type I	Type II	Type III	Type IV	Type V
Zoning Interpretations	PPW	X				
<b>Environmental (Titles 14 &amp; Lakewood Shoreline Master Program)</b>						
Critical Area Reasonable Use Exception	PPW	X				
Critical Area Variance (less than 15% deviation to standards)	PPW	X				
Critical Area Variance (greater than 15%, less than 25% deviation to standards)	PPW		X			
Critical Area Variance (greater than 25% deviation to standards)	HE			X		
Shoreline Exemption	PPW	X				
Shoreline Conditional Use*	PPW			X		
Shoreline Master Program Amendment*	PC/CC					X
Shoreline Substantial Development Permit	PPW		X			
Shoreline Permit (after approval) Major/Minor Modification*	PPW		X			
Shoreline Variance*				X		
SEPA Threshold Determination	PPW		X			
SEPA Planned Action Conformance	PPW	X				
<b>Building (Title 15)</b>						
Accessory Building	PPW	X				
Accessory Dwelling Unit	PPW	X				
Adult Family Home	PPW	X				
Building Code Interpretation	CBO	X				
Certificate of Occupancy	CBO	X				
Commercial Addition/Remodel	PPW	X				
Demolition	PPW	X				
Manufactured/mobile home	PPW	X				
Mechanical	PPW	X				
Multi-family	PPW	X				
New Commercial Building	PPW	X				
New Residential Building	PPW	X				
Plumbing	PPW	X				
Residential Addition/Remodel	PPW	X				

**Commented [AS18]:** Somewhat of a process change. Current code allows for both a Type 2 and 3 process based on Shoreline administrator determination, but no criteria on when or how that should be triggered. Same for Shoreline variances which are now reflected as a type 3 only.

Application Type	Review & Approval Authority	Type I	Type II	Type III	Type IV	Type V
Minor/Major modification to Approved Building Permit	PPW	X				
Sign	PPW	X				
Single family home	PPW	X				
<b>Development Engineering (Titles 12 &amp; 13)</b>						
Right-of-Way	PPW	X				
Road Vacation	PPW					X
Site Development	PPW	X				
Site Development Permit (after approval) major/minor modification	PPW	X				
Transportation mitigation fee	PPW	X				
<b>Miscellaneous</b>						
Business license	PPW	X				
Multi-family tax exemption	PPW	X				
Scrivener's corrections	D				X	
<p>Legend:                      D=Planning &amp; Public Works Director                      PPW=Planning &amp; Public Works Department                      CBO=Chief Building Official                      CE=City Engineer                      CC=Lakewood City Council                      HE=Hearings Examiner                      PC=Lakewood Planning Commission</p> <p><i>*Pursuant to RCW 90.58, following local action, final decisions are made by the Washington State Department of Ecology regarding amendments to the Lakewood Shoreline Master Plan (SMP), as well as Shoreline Conditional Use and Shoreline Variance permits.</i></p>						



The Lakewood Municipal Code is current through Ordinance 801, passed March 18, 2024.

[Ord. 794 § 2 (Exh. A), 2023; Ord. 789 § 2 (Exh. A), 2023; Ord. 758 § 2 (Exh. A), 2021; Ord. 756 § 2, 2021; Ord. 738 § 2 (Exh. A), 2020; Ord. 726 § 2 (Exh. B), 2019.]

### **18A.20.085 Modifications to approved permits or decisions.**

A. This section applies to proposed amendments to approved permits or decisions governed by LMC Chapter 18A.20, unless more specific amendment provisions are provided elsewhere in the Lakewood Municipal Code or state laws.

#### **B. Major Amendments.**

1. If an applicant submits an application for a major modification to an approved permit or decision, the application shall be reviewed under the vested rules of the associated development regulations and original project permit application. Any amendment is subject to all procedural review requirements and may require additional fees or supporting information as necessary for consistent and informed review. Any changes required by conditions of approval of an application shall not be considered major modifications.
2. For the purpose of this subsection, modifications shall be considered major if one or more of the following applies:
  - a. The modification would (i) add more than ten percent (10%) gross square footage to a proposed or existing structure(s) on the site and (ii) result in at least one of the following (subsections (B)(2)(b) through (h) of this section); or
  - b. The perimeter boundary of the original site would be expanded by more than ten percent (10%) of the original lot area; or
  - c. The modification would increase the overall impervious surface on the site by more than twenty-five percent (25%); or
  - d. The modification would substantially relocate points of access or increase traffic, unless supported by a revised traffic impact analysis that demonstrates no significant increase in traffic impact; or
  - e. The modification would reduce designated open space by more than ten percent (10%); or
  - f. The modification would change the intended use of the original proposal to a new use that is of higher intensity, and would create more significantly adverse impacts than originally proposed; or
  - g. The modification would result in significant adverse impacts that have not been previously disclosed by the applicant or considered by the department; or
  - h. There is significant new information that would change a prior SEPA threshold determination.

C. *Minor Modifications.* Minor modifications that do not qualify as major under the criteria above. If an applicant submits an application for a minor amendment to an approved permit or decision, the application shall be reviewed under the vested rules of the original project permit application. Any modification is subject to all procedural review requirements at the time of application for modifications and may require additional fees or supporting information as necessary for consistent and informed review.

**Commented [AS19]:** Intent to provide clarification and transparency on process to modify approved permits. Additionally consistency revisions may be necessary in definitions, etc. on modifications

**Commented [AS20]:** Is this the case for stormwater due State Supreme court decision if in different NPDES permit cycle? Also, is this accurate under Title 15 building code?



City of

Lakewood

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D. Site Development Permits. Proposed modifications to approved site development permits shall be subject to requirements set forth in LMC Title 12 and this Title.

E. Land Divisions. Proposed amendments to approved preliminary land divisions, or proposed alterations to approved final land divisions shall be governed by LMC Title 17, Subdivisions and this Title.

### **18A.20.090 Expiration of approvals.**

The City shall provide expiration dates in notifications of permit approvals. Knowledge of the expiration date of any approval is the responsibility of the applicant. The City shall not be held accountable for notification of pending expirations.

A. *Variance*. Except for variances related to LMC [18A.60.050](#) and [18A.60.060\(F\)](#), unless exercised, a variance shall expire one (1) year from the date a final decision is issued. If timely exercised, a variance shall be valid indefinitely.

B. *Conditional Use Permit*. Unless exercised or otherwise specified, a conditional use permit shall be void one (1) year from the date a notice of final decision was issued. If exercised, a conditional use permit shall be valid for the amount of time specified by the Hearing Examiner. If the use allowed by the permit is inactive, discontinued or abandoned for twelve (12) consecutive months, the permit is void and a new permit shall be obtained in accordance with the provisions of this title prior to resuming operations.

C. *Home Occupation Permit*. A home occupation permit shall be valid indefinitely unless a time limitation is specified by staff or the Hearing Examiner or it is revoked for lack of compliance to conditions. A home occupation permit shall be void unless exercised within one (1) year from the date such permit was issued. If the use allowed by the permit is inactive, discontinued or abandoned for twelve (12) consecutive months, the permit is void and a new permit shall be applied for and obtained in accordance with the provisions of this title prior to resuming operations. A home occupation permit shall not be transferable to a new site or entity.

D. *Land Use Approval*. Unless exercised by complete application for necessary construction permits, any land use approval shall expire and be null and void two (2) years from the date the final approval was issued. Land use approval shall be extended two (2) additional years if a complete building or other construction permit application for the project is submitted prior to expiration of the land use approval. Even absent such application, upon finding that there has been no substantial change in relevant circumstances and standards, land use approval may be extended up to two (2) additional years by the Director pursuant to a written request submitted prior to expiration of land use approval. Upon receiving such request, notice shall be provided pursuant to the comparable notice of application procedures of LMC [18A.20.310](#). Following a comment period of at least fourteen (14) days, the Director may grant, limit or deny the extension and may impose such conditions of extension to ensure compliance with any subsequently revised standards. If such written request for extension is not received by the Department prior to expiration, such extension shall be denied.

E. *Land Division Approval*. Approved land divisions regulated under LMC Title 17 shall adhere to the expiration timelines set forth in RCW 58.17.

F. *Site Development & Right of Way Approval*. Approved and issued engineering permits shall expire pursuant to LMC Title 12.



G. *Building Permit Approval.* Approved and issued building permits shall expire pursuant to LMC Title 15.

H. Detailed design review approval shall expire simultaneously with expiration of any associated building or other construction permit.

I. *Sign Permit.* If a sign is not installed and a use permit issued within six (6) months following the issuance of a sign permit (or within thirty (30) days for temporary signs), the permit shall be void. The City of Lakewood may revoke a sign permit under any of the following circumstances:

1. The City of Lakewood determines that information in the application was materially false;
2. The sign as installed does not conform to the sign permit application;
3. The sign violates this code, building code, or other applicable law, regulations or ordinance; or
4. The Planning and Public Works Director determines that the sign is not being properly maintained. [Ord. 794 § 2 (Exh. A), 2023; Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.20.100 Licenses and building permits.**

Business and occupational licenses shall not be issued unless the applicant has a final inspection or certificate of occupancy as required by Chapter [15.05](#) LMC and as defined hereunder. No building permit shall be issued for the construction, alteration, change of use, or relocation of any building, structure or part thereof unless the plans, specifications and intended use of such building or structure conforms in all respects with the provisions of this title. [Ord. 789 § 2 (Exh. A), 2023; Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.20.105 Violations and enforcement.**

A. *Violations.* It shall be a violation of this title for any person to:

1. Use, construct, locate or demolish any structure, land, sign or property within the City without first obtaining the permits or authorizations required for the use by this title.
2. Use, construct, locate or demolish any structure, land, sign or property within the City in any manner that is not permitted by the terms of any permit or authorization issued pursuant to this title; provided, that the terms or conditions are explicitly stated on the permit or the approved plans.
3. Remove or deface any sign, notice, complaint or order required by or posted in accordance with this title, Chapter [14.02](#) LMC, Environmental Rules and Procedures, or other City ordinances.
4. Misrepresent any material fact in any application, plans or other information submitted to obtain any land use authorization.
5. Fail to comply with the requirements of this title.

B. *Enforcement Measures.* The City Manager is authorized and empowered to ensure compliance with and enforce the provisions of this title to the fullest extent of the law. Except as specified elsewhere, violation of any provision of this title, including failure to comply with any lawful order issued under the authority of this title, constitutes a Class 2 civil infraction, as defined in Chapter [1.48](#) LMC. Any violation of this title which is deemed to be a public nuisance

or a danger to the public health and/or safety shall be addressed as specified in Chapter [1.44](#) LMC.

C. *Revocation of Permits.*

1. The Planning and Public Works Director is authorized and empowered to revoke any permit issued by the Department issued in error or based on false or misleading information or upon failure of the permit holder thereof to comply with any provision or condition of this title.
2. Any conditions or requirements placed upon a project permit by the Director or decision-making body as a result of the provisions of this title shall be strictly followed. In the event that the permit holder, or his assignee, fails to comply with any such conditions the project permit may be revoked or modified as set forth below or under the provisions of the International Building Code.
3. If, after an investigation, the Director determines that one (1) or more conditions of a permit are not being met, notice shall be mailed to the permit holder or agent by regular mail advising him of the deficiency and requiring that the deficiency be remedied within ten (10) days from the date the notice is mailed or such longer period as the Community Development Director may deem appropriate.
4. If the permit holder or agent fails to remedy the deficiency within this time period set, the Director shall mail notice to the permit holder or agent advising the intent to revoke the development permit. Such notice shall state that to avoid such action the permittee must request, in writing, a hearing before the Hearing Examiner and then appear and show cause why the permit should not be revoked. Such a hearing request must be filed within ten (10) days of the date of the notice of intent to revoke. The Hearing Examiner may uphold the permit should it be determined that all conditions have been met or no longer need to be met; may modify or add conditions to the permit; or may revoke the permit. If the permittee fails to file a timely request for hearing, then the Director shall send him a notice advising him the project permit has been revoked and that any further action thereon would be in violation of City of Lakewood Land Use and Development Code.
5. The provisions of this section shall apply to all project permits issued prior to the date of adoption of this code, as well as all project permits issued thereafter. [Ord. 726 § 2 (Exh. B), 2019.]

**18A.20.110 Certificate of occupancy.**

A certificate of occupancy shall be obtained from the Department when required by the International Construction Codes and LMC Title [15](#). [Ord. 789 § 2 (Exh. A), 2023; Ord. 726 § 2 (Exh. B), 2019.]

**18A.20.120 Annexed land.**

All land or territory within the urban growth area that is hereafter annexed to the City shall be zoned as depicted on the official zoning map of the City. Any area that is not rezoned shall be zoned in conformance to the comprehensive plan. [Ord. 726 § 2 (Exh. B), 2019.]



### **18A.20.130 Approval of transfer of development rights.**

The purpose of the transfer and purchase of development rights (TDR) program is to permanently conserve resource lands such as forestry and agriculture, rural lands, recreational trails, open space and habitat areas through acquisition and extinguishment of the development rights on those lands which are designated as "sending sites." Lakewood participates in the TDR program as administered in Pierce County Code Chapter [18G.10](#).

A. *Required Instruments.* Final approval for site plans or subdivision plats which involve the transfer of development rights (TDR) shall not be approved until evidence is provided to the City that the following instruments have been approved by the Pierce County TDR Program Administrator and recorded with the Pierce County Auditor:

1. Signed and recorded TDR certificates for each unit of density on the receiving parcel(s) in the Residential 4-8 District; and
2. A signed and recorded document of attachment of the development rights to the subject parcel(s).

B. Deed restrictions documenting the conveyance of development rights shall be recorded with the Pierce County Auditor on all applicable parcels and notice shall be placed on the title of the sending site indicating that a development rights transfer has occurred.

The following information shall be recorded on the face of any plat for property which received a TDR under the provision of this chapter: A statement that the development rights used in the plat have been transferred in accordance with the deed of transfer of development rights prescribed by Pierce County; the volume and page number of the recordation of the deed of transfer of development rights between the owner and the applicant; the volume and page number of the recordation of the transfer of development rights easement between the original owner and Pierce County; the serial numbers issued by the Pierce County TDR Program Administrator of the TDRs used in the plat; and the volume and page number of the recorded document of attachment of the TDRs to the subject parcel. [Ord. 726 § 2 (Exh. B), 2019.]

## **Article II. Nonconforming Uses and Structures**

### **18A.20.200 Purpose.**

This article establishes uniform provisions for the regulation of nonconforming land uses, structures, and lots (termed "nonconformities" within this chapter). The use of a property is defined by the activity for which the building or lot is intended, designed, arranged, occupied, or maintained. See Chapter [18A.40](#) LMC for a further discussion of permitted uses.

A. Within the City's zoning districts, there may exist lots, uses, and structures that were lawfully established but which no longer conform to the most current provisions and standards of the zoning district in which they are located. Such nonconformities may adversely affect the development and redevelopment of the City consistent with the provisions of the comprehensive plan.

This article provides for the regulation of these legally existing nonconformities and attempts to balance the rights of property owners to continue the use of their properties and the perpetuation of uses envisioned under the City's comprehensive plan and this title. These standards specify the circumstances, conditions, and procedures under which such nonconformities are permitted to endure.



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- B. It is the overall intent to generally discourage the long-term continuance of nonconforming lots, uses and structures and to:
1. Limit the number and extent of specific nonconforming uses and structures that conflict with the provisions of this Zoning Code by prohibiting their reestablishment after abandonment;
  2. Establish procedures and criteria for evaluating the allowable enlargement of specific nonconforming uses and structures;
  3. Allow for the continuation and maintenance of specific nonconforming uses and structures;
  4. Eliminate specific nonconforming uses and structures;
  5. Limit the alteration, enlargement, or relocation of nonconforming structures in any manner that increases their level of nonconformity to this current Zoning Code;
  6. Limit the extent to which nonresidential uses that are involuntarily damaged or destroyed can be restored; and
  7. Allow for the reconstruction of nonconforming residential dwelling units that are involuntarily damaged or destroyed. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.20.208 Applicability – Nonconformities.**

- A. This article shall apply to legally existing nonconformities, except the following items, which shall be governed by the standards set forth in the chapters identified below:
1. Nonconforming uses and structures within the Downtown Subarea Plan, as governed in LMC Title [18B](#).
  2. Nonconforming uses and structures within the Lakewood Station District Subarea Plan, as governed in LMC Title [18C](#).
  3. Nonconforming signs as defined in Chapter [18A.100](#) LMC, Signs.
  4. Nonconforming wireless service facilities as defined in Chapter [18A.95](#) LMC, Wireless Service Facilities.
  5. Nonconforming mobile home parks as defined in LMC [18A.40.110\(C\)](#), Manufactured Home Parks. Manufactured and mobile home parks which were legally approved prior to the effective date of this title may continue to exist; provided, that the density of the park does not increase over the number of dwelling units legally existing on the effective date of this title. Manufactured home sites within legally nonconforming manufactured home parks may continue to be used; provided, that the placement of newer manufactured homes does not result in encroachment of the dwelling beyond the lot space boundaries or into the right-of-way and fire code requirements for structure spacing are met.
  6. Nonconforming sexually oriented businesses as defined in the Chapter [18A.50](#) LMC, Article III, Sexually Oriented Businesses Overlay.
  7. Permit applications at the time of this title's passage that constitute vested development.
    - i. Future plans to further develop property shall not constitute a basis for nonconformity status, whether or not documented in the public record, except when they constitute a vesting.



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- ii. Nothing in this article shall be construed to require a change in plans, construction, or intended use related to vested development, though it may thereafter be regulated as a nonconformity. [Ord. 751 § 4 (Exh. C), 2021; Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.20.210 Preexisting nonconforming lots of record.**

- A. *Variances Allowable.* The entire contiguous ownership of multiple parcels of land shall be considered as a single parcel of land for determination of nonconformance as a consideration of development. A record of separate lot or parcel boundaries shall be disregarded. It is recognized that the dimensions of some nonconforming lots of record are so constrained that meeting some development regulations such as setbacks would render such lots essentially unbuildable. The City will consider unusual hardships in reviewing applications for such development. Variances may be granted in such instances based on individual circumstances and may be conditioned to mitigate any negative effect on the surrounding area.
- B. *Alteration.* Nonconforming lots may not be altered in any way that would increase the degree of nonconformity; provided, this does not preclude acquisition or dedication of additional public right-of-way when deemed necessary by the City Engineer. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.20.218 Transfer of ownership – Nonconforming uses.**

The transfer of ownership of a nonconforming lot, use, or structure will not alter its legal nonconforming status. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.20.220 Proof of nonconformity.**

The burden of demonstrating that nonconformity is lawful under this chapter rests with the property or business owner. The City may, at its discretion, request such records from a property or business owner as a basis for determining whether nonconformity was legally established and preexisting. Some examples of evidence that may indicate legal nonconforming status include: tax assessment records, construction or other permit records, personal or business income tax records, business license records, dated past advertising, dated business receipts to customers, dated rent receipts, affidavits from neighbors or tenants, testamentary documents, photographs whose date may be clearly ascertained, and other such information which is competent and factual. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.20.228 Nonconforming uses.**

A. Where a lawful structure exists at the effective date of adoption of the ordinance codified in this title that could not be built under the terms of this title by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure, it may be continued so long as the structure remains otherwise lawful subject to the following provisions:

1. Whenever a nonconforming use has been abandoned, discontinued, or changed to a conforming use for a continuous period of twelve (12) months or more, the nonconforming use shall not be reestablished, and thereafter the use of the structure or site wherein it was located shall be in conformity with the regulations for its zoning district.



If any nonconforming use ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use shall conform to the regulations specified by this title for the district in which such use is located.

Abandonment or discontinuance shall include cessation of a use regardless of intent to resume the use.

2. A nonconforming use within a single-tenant building may only be replaced by a conforming use or another nonconforming use that is the same as or similar to the previous nonconforming use, provided not more than twelve (12) months have passed since the cessation of the previous nonconforming use, and provided the replacement nonconforming use does not create new impacts or an increase in intensity of the land use.

3. A nonconforming use within a multi-tenant building may be replaced by a conforming use, a nonconforming use that is the same as or similar to the previous nonconforming use within the tenant space, provided not more than twelve (12) months has passed since the cessation of the previous nonconforming use, or by a nonconforming use that is the same as or similar to an existing nonconforming use within the building, provided the replacement nonconforming use does not create new impacts or an increase in intensity of the land use.

4. Except as permitted in this section, no nonconforming use shall be enlarged or extended beyond the space it occupied on the effective date of the ordinance that designated it nonconforming.

5. A structure containing a nonconforming use may be expanded so long as the new addition is occupied by a conforming use, and the conforming use does not directly facilitate or support the nonconforming use. The new addition is subject to the development standards of the underlying zoning district. Both the existing building and new addition must comply with currently adopted City design guidelines. [Ord. 726 § 2 (Exh. B), 2019.]

### **18A.20.230 Nonconforming structures.**

A. Where a lawful structure exists at the effective date of adoption of the ordinance codified in this title that could not be built under the terms of this title by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure, it may be continued so long as the structure remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged or altered in a way that increases its degree of nonconformity. Alterations, additions or enlargements may be allowed as long as the work done does not extend further into any required yard or violate any other portion of this title. Complete plans shall be required of all work contemplated under this section.
2. Work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding twenty-five (25) percent of the current replacement value of the building. Replacement values shall be determined by the City's Building Official.
3. Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at time of destruction, in the judgment of the City's Building Official, it shall not be reconstructed except in conformity with provisions of this title.



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4. Should such structure be moved for any reason or any distance whatsoever, it shall thereafter conform to the regulations for the zone in which it is located after it is moved. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.20.238 Repairs and maintenance.**

Nonconforming uses and the structures they occupy may continue to be operated and occupied except as provided below. Routine maintenance and repairs may be performed on land or structures containing a nonconforming use. A nonconforming use shall not be changed to another nonconforming use. Nonconforming uses outside of a structure which occupy only a portion of a lot may not be expanded to any other portion of the property not previously regularly and actually occupied for such use. Nonconforming uses may not be expanded unless such expansion is required by law or a public agency in order to comply with public health, safety or welfare regulations; provided, that any existing nonconforming single-family detached housing unit may be expanded, and new detached accessory structures consistent with the standards set forth for residential accessory buildings in LMC [18A.50.140](#) may be allowed upon properties where existing nonconforming single-family detached housing is located. All applicable construction permits must first be obtained for any such work. Other than regulations relating to public health, safety, and welfare, nonconforming uses, either inside or outside of a structure, may be altered or moved only if the proposed development and its use will be more compatible with the surrounding area than the current development and use considering the following:

- A. The character and history of the use and of development in the surrounding area.
- B. The comparable degree of noise, vibration, dust, odor, fume, glare, or smoke detectable at the property line.
- C. The comparative amount and nature of outside storage, loading and parking.
- D. The comparative visual appearance.
- E. The comparative hours of operation.
- F. The comparative numbers and kinds of vehicular trips to the site.
- G. The comparative effect on existing vegetation.
- H. The comparative effect on water drainage.
- I. The degree of service or other benefit to the area.
- J. Other factors which tend to reduce conflicts or increase compatibility with the character or needs of the area [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.20.240 Health or safety improvements.**

Nothing in this title shall be deemed to prevent the strengthening or restoring to a safe condition of any nonconforming building or part thereof declared to be unsafe by order of the Building Official charged with protecting the public safety. Alterations or expansion of a nonconforming use which are required by law or a public agency in order to comply with public health or safety regulations are the only alterations or expansions allowed. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.20.248 Nonconforming parking lots.**

A. Nothing contained in this chapter shall be construed to require a change in any aspect of a structure or facility covered thereunder including, without limitation, parking lot layout, loading space requirements and curb cuts, for any structure or facility which existed on the date of adoption of the ordinance codified in this title.

B. If a change of use takes place within a nonconforming structure, or an addition is proposed, which requires an increase in the parking area, the additional parking area as required by this title shall be provided. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.20.250 Nonconforming landscaped areas.**

A. Adoption of the landscaping regulations contained in this title shall not be construed to require a change in the landscaped improvements for any legal landscape area which existed on the date of adoption of the ordinance codified in this title, unless and until a change of use or alteration of the structure is proposed.

B. At such time as a change is proposed for a use, or structure, and associated premises which does not comply with the landscape requirements of this title, a landscape plan which substantially conforms to the requirements of this title shall be submitted to the Director for approval prior to issuance of a building permit. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.20.258 Conditional uses.**

A legal use does not become nonconforming because the zone in which it is located is changed to a zone which requires a conditional use permit for the use, or because the use is changed from an allowed use to a conditional use within the same zone; however, a conditional use permit shall then be required for any expansion of the use or enlargement of the building. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.20.260 Administrative determinations.**

By their nature, nonconformities can be unique and difficult to identify and equitably regulate. If issues of interpretation arise regarding the nonconforming status or replacement when abandonment, damage, or destruction has occurred, the Director shall issue an administrative determination as set forth in LMC [18A.20.070](#). [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.20.268 Review of administrative decisions.**

The Director's decision on an administrative decision under this chapter may be appealed to the Hearing Examiner, pursuant to Chapter [1.36](#) LMC. [Ord. 726 § 2 (Exh. B), 2019.]

### **Article III. Public Notice Requirements**

#### **18A.20.300 Public notice procedures.**

A. The Director shall determine the proper public notification procedure for all applications. If there is a question as to the appropriate process, the Director shall resolve it in favor of the higher process type number procedure. Type I permits are the lowest number procedure and Type V permits are the highest.



B. An application that involves two (2) or more procedures may be processed, at the City's sole discretion, collectively under the highest numbered procedure required for any part of the application or processed individually under each of the procedures identified by this chapter. If the application is processed under the individual procedure option, the highest numbered process procedure must be processed prior to the subsequent lower numbered procedure. Joint public hearings with other agencies shall be held in accordance with LMC [18A.20.360](#). [Ord. 726 § 2 (Exh. B), 2019.]

**18A.20.310 Public notice framework.**

To inform the public of proposed project actions, the Department and applicants shall provide notice as identified in the table below. A vicinity map and basic site plan shall be included with any mailed notices. If a project is SEPA-exempt and no public hearing is required, notice will be limited to the type of notice described below.

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Type of Notice	Type I	Type II	Type III	Type IV	Type V
Notice of Application (NOA)	No	Yes	Yes	No	No
Adjacent landowner mailing	No	Yes	Yes	No	Only Annexation, Development Agreement, Rezone or Comprehensive Plan site-specific Amendment Requests

**Commented [AS21]:** @ Tiffany: Current code only recognizes the Direct Petition method and requires mailings at both 10% petition and 60% assessed value stage when an ordinance would go to council. I can include language to be this specific, but welcome thoughts as there ae other annexation methods allowed with different procedural requirements.

Type of Notice	Type I	Type II	Type III	Type IV	Type V
<b>Project Site Posting</b>	No	Yes	Yes	No	Only for an Annexation, Development Agreement, Rezone or Comprehensive Plan site-specific Amendment Requests
<b>PPW Website</b>	No	Yes	Yes	No	Yes
<b>Newspaper of Record</b>	No	Yes	Yes	No	Yes
<b>SEPA Determination</b>	If Applicable per WACs	If Applicable per WACs	If Applicable per WACs	If Applicable per WACs	If Applicable per WACs
<b>Notice to parties on record</b>	Yes	Yes	Yes	No	Yes
<b>Notice of Decision (NOD)</b>	Yes	Yes	Yes	No	No

### 18A.20.320 Use of Pierce County Assessor's Office taxpayer data.

Repealed by Ord [738](#).

### 18A.20.330 Notice of application .

A. *Timing.* A notice of application shall be issued within fourteen (14) calendar days after the Department has made a determination of completeness pursuant to LMC [18A.20.050](#). .. One (1) notice of application shall be completed for all permit applications related to the same project at the time of the earliest complete permit application.

B. *SEPA Threshold Determination.*

A SEPA threshold determination may be issued with a notice of application; provided, that a final threshold determination of nonsignificance or mitigated determination of nonsignificance may not be issued until after the expiration of the public comment period on the notice of application when the optional DNS process (WAC [197-11-355](#)) is utilized.

C. *Content.* The notice of application shall include:

1. Application number(s),
2. Date of application submittal,
3. Date of the determination of application completeness ,
4. Date of the notice of application.

**Commented [B22]:** Case file? Project? Permit?

**Commented [AS23R22]:** Case file is a County term of art versus application #



5. A description of the proposed project action and a list of related project applications and, if applicable, a list of any studies requested by the review authority pursuant to RCW [36.70B.070](#).

6. To the extent known, identification of other required permits that are not included in the application.

7. The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed.

6. A statement of the limits of the public comment period, which shall be not less than fourteen (14) nor more than thirty (30) calendar days following the date of notice of application, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights.

7. Tentative date, time, place and type of hearing, if applicable or available.

8. Identification of the development regulations that will govern mitigation of any project impacts.

9. Name of the applicant or applicant's representative and the name, address and telephone number of a contact person for the applicant.

10. A description of the site, including current zoning and nearest road intersections, reasonably sufficient to inform the reader of its location.

11. Any other information determined appropriate by the City, such as a determination of significance.

D. *Distribution and publication.* The Department shall mail a copy of the notice of application to the following:

1. Applicant.

2. Service providers, agencies and federally recognized tribes with jurisdiction.

3. Any person who requests in writing to be a party of record.

4. Affected landowners within a 300 feet radius of the exterior boundaries of project site.

5. Posted on the City's website.

E. *Public Comment.* All public comments on the notice of application must be received by the Department or postmarked by 5:00 p.m. on the last day of the comment period. Comments may be mailed, personally delivered or sent by email. Comments should be as specific as possible.

F. *Project Site Posting.* The applicant shall be responsible for posting a notice board on the property on which Department notices can be placed. Public notice shall be accomplished through the use of Department poster boards mounted on a four (4) foot by four (4) foot plywood face generic notice board to be supplied by the applicant, to the following specifications:

1. Posting of the property for site-specific proposals shall consist of one (1) or more notice boards as follows:

a. A single notice board shall be placed by the applicant in a conspicuous location on a street frontage bordering the subject property.

b. When the notice board is installed the applicant shall complete and return a written affidavit of posting to the Department by regular or electronic mail. An affidavit of

Commented [B24]: Is this true?

Commented [AS25]: Add provision for internal consistency of requirements to note property owner mailing within a project radius. This is covered as a requirement already in LMC 18A.20.310.

Commented [AS26]: This is a new requirement but similar requirements in other LMC sections. Impacts??



posting shall be submitted to the Department at least seven (7) calendar days prior to the hearing. If the affidavits are not filed as required, any scheduled hearing or date by which the public may comment on the application may be postponed in order to allow compliance with this notice requirement.

- c. Each notice board shall be visible and accessible for inspection by members of the public.
- d. Additional notice boards may be required when:
  - i. The site does not abut a public road; or
  - ii. Additional public notice boards are required under other provisions of the Lakewood Municipal Code; or
  - iii. The Director determines that additional notice boards are necessary to provide adequate public notice.
- e. Notice boards should be:
  - i. Constructed and installed in accordance with specifications determined by the Department, including mounted and bolted onto at least two (2) four (4) inch by four (4) inch wood posts, and placed securely in the ground;
  - ii. Maintained in good condition by the applicant during the notice period;
  - iii. In place at least fifteen (15) calendar days prior to the end of any required comment period; and
  - iv. Removed by the applicant within ten (10) calendar days after the end of the notice period or final public hearing date.
- f. Notice boards that are removed, stolen, or destroyed prior to the end of the notice period may be cause for discontinuance of the departmental review until the notice board is replaced and remains in place for the specified time period. The Department shall notify the applicant when it comes to the City's attention that notice boards have been removed prematurely, stolen, or destroyed.
- g. SEPA information shall be added by the Department to the posted sign within applicable deadlines.

[Ord. 726 § 2 (Exh. B), 2019.]

### **18A.20.340 Notice of public hearing.**

- A. *Timing.* Notice of public hearing are required for Type III and Type V applications for which a public hearing is held. Notice of public hearing shall be posted on the City's website and published in the newspaper of record at least fourteen (14) calendar days in advance of the hearing.
- B. *Notice contents.* The Notice of public hearing shall contain the following information:
  - 1. The name of the applicant or the applicant's representative.
  - 2. Description of the affected property, which may be in the form of either a vicinity location sketch or written description, other than a legal description.
  - 3. The date, time, and place of the hearing.
  - 4. The nature of the proposed use or development.
  - 5. A statement that all interested persons may appear and provide testimony.



6. When and where information may be examined, and **deadline of** when and how to submit written comments for inclusion into the record.

7. The name and contact information of a City representative where additional information may be obtained.

8. That a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost online and will be provided at the cost of reproduction.

9. That a copy of the staff report will be available for inspection at no cost at least **seven (7)** calendar days prior to the hearing and copies will be provided at the cost of reproduction.

C. *Mailed Notice.* The Department shall mail notice at least **fourteen (14) calendar days** prior to the public hearing through the United States Postal Service to all property owners of record within a radius of three hundred (300) feet of the exterior boundaries of the subject property, any person who submitted written comments on an application, the applicant, and parties of record, if any. For Type V permits, mailed notices are only required for certain proposed projects pursuant to LMC 18A.20.310 Public Notice Matrix.

D. *Continuations.* If for any reason a commenced hearing on a pending project application cannot be completed on the date set in the public notice, the hearing may be continued to a date certain and no further notice under this section is required.

. [Ord. 726 § 2 (Exh. B), 2019.]

### 18A.20.350 Optional public notice.

In addition to the required methods set forth in this chapter for providing public notice, the Director may require additional optional notification by the City, if determined necessary to ensure adequate notice to the public. This the optional notice as described in this subsection is not required and shall not be grounds for invalidation of any permit decision. Optional public notice includes, but is not limited to, any one or more of the following:

- A. Notify public or private individuals or groups with known interest in a certain proposal or type of proposal, or in proposals within a certain area or areas of the City;
- B. Notify the newspaper of record;
- C. Mail to neighboring property owners and occupants;
- D. Post notices in public places;
- E. Record notices on a telephone message line;
- F. Post notices electronically via the internet;
- G. For legislative actions, except annexations, mail via the United States Postal Service to persons who have indicated an interest in such actions and who have paid an annual subscription fee based on the cost of such mailings. The list of such persons shall be maintained by the Planning and Public Works Department ;
- H. For legislative actions, except annexations, email to persons who have indicated an interest in such actions and a preference to be notified by email. The list of such persons shall be maintained by the Planning and Public Works Department. [Ord. 726 § 2 (Exh. B), 2019.]

**Commented [AS27]:** HB 1105 requirement. [1105-S.SL.pdf \(wa.gov\)](#)

**Commented [AS28]:** Sprinkled through other code chapters reference 7 days before hearing the staff report is available (i.e development agreements). Recommendation is to pick one to ensure consistency in implementation.

**Commented [AS29]:** Align mailing with notice to the newspaper as same deadline

### 18A.20.360 Notice of Decision

- A. *Timing.* Whenever a final decision has been made that requires a notice of decision as noted in LMC 18A.20.310, the Department shall issue the notice within fourteen (14) days of the final decision.
- B. *Content.* The notice of decision shall include, at a minimum, the following information:
1. The decision on the project permit application.
  2. Any SEPA threshold determination made pursuant to Chapter 43.21C RCW, if applicable.
  3. The procedure for administrative appeal, if any.
  4. A statement that the complete file, including findings, conclusions and any conditions of approval, is available for review, and shall list the place, days and times when the file is available and contact information of the Department representative.
  5. The notice of decision may be a copy of the report or decision, if such report or decision contains the information required in this subsection (B).
- C. *Distribution.* The notice of decision shall be provided by electronic mail to the following:
1. The applicant.
  2. To any parties of record.
  3. To any agencies with jurisdiction over the project permit application or any agencies that commented on the project permit application.
  4. To any person who, prior to rendering the decision, has requested a copy of the notice of decision.
  5. To the Pierce County Assessor-Treasurer Office.
- D. *Shoreline Jurisdiction.* Notices of decision on Type I, II and III project permits governed by the Lakewood's Shoreline Master Program shall also be immediately filed in accordance with applicable procedures governing the Washington State Shoreline Management Act, Chapter 90.58 RCW and Chapter 173-27 WAC.
- E. *Exemptions.* A notice of decision shall not be required for Type IV and V application under LMC 18A.20.330.

### 18A.20.370 Joint public hearings.

- A. The Director may combine a public hearing on a Type III and Type V project application with any hearing that may be held by another local, state, regional, federal, or other agency, on the proposed action, as long as:
1. The other agency consents to the joint hearing;
  2. The other agency is not expressly prohibited by statute from doing so;
  3. Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, LMC, or rule;
  4. The agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the local government hearing; and
  5. The hearing is held within the Lakewood City limits.

**Commented [AS30]:** NODs are covered in existing code already (LMC 18A.20.310), however no language exists on minimum requirements on content and timing. This revision ensures predictability and transparency with the public and applicant on the permitting process.

**Commented [AS31]:** Understand goal is to ultimately codified SMP standalone title (which I strongly support). Leaving it general until we know where it will live in the future.

**Commented [AS32]:** This matches the simplified table. However, it deviates from current practice as some do require a NOD for a Type V (i.e SMP amendment, comp plan amendment, etc). I'm ok with the provision as those legislative items have state procedures to follow after final action is taken (i.e Notice of Adoption, etc).

**Commented [AS33]:** Confirm no other permit type would have a joint hearing request



B. An applicant may request that the public hearing on a permit application be combined as long as the joint hearing can be held within the time periods set forth in LMC [18A.20.090](#). In the alternative, the applicant may agree to a particular schedule if additional time is needed in order to complete the hearings. [Ord. 726 § 2 (Exh. B), 2019.]

## **Article IV. Appeals/Reconsiderations**

### **18A.20.400 Specific appeal procedures.**

A. *Administrative Decisions.* Appeals for Type I and Type II Administrative final decisions regarding project permit applications shall be heard by the Hearing Examiner. Appeals shall be filed within fourteen (14) days after notice of decision. In accordance with RCW 43.21C.075, the appeal period shall be extended to twenty-one (21) days if issued with a SEPA threshold determination including a comment period, of the final Department decision using procedures outlined below and in Chapter [1.36](#) LMC.

B. *Wireless Service Facilities Permits.* Wireless service facilities permits are administratively approved by the Department. Such decisions are appealable directly to the Pierce County Superior Court.

C. *SEPA.*

1. Environmental appeals are subject to the requirements of LMC [14.02.200](#), in addition to the requirements found in this subsection.

2. The City establishes the following administrative appeal procedures under RCW [43.21C.075](#) and WAC [197-11-680](#):

- a. Any agency or person may appeal the City's conditioning, lack of conditioning or denial of an action pursuant to Chapter [197-11](#) WAC. All such appeals shall be made to the Hearing Examiner and must be filed within fourteen (14) days after the comment period before the threshold decision has expired. This appeal and any other appeal of a land use action shall be considered together.
- b. The following threshold decisions or actions are subject to timely appeal:
  - i. *Determination of Significance.* Appeal of a determination of significance (DS) or a claim of error for failure to issue a DS may only be appealed to the Hearing Examiner within that fourteen (14) day period immediately following issuance of such initial determination.
  - ii. *Determination of Nonsignificance or Mitigated Determination of Nonsignificance.* Conditions of approval and the lack of specific conditions may be appealed to the Hearing Examiner within fourteen (14) calendar days after the SEPA comment period expires.
  - iii. *Environmental Impact Statement (EIS) Adequacy.* A challenge to a determination of adequacy of a Final EIS may be heard by the Hearing Examiner in conjunction with any appeal or hearing regarding the associated project permit. Where no hearing is associated with the proposed action, an appeal of the determination of adequacy must be filed within fourteen (14) days after the thirty (30) day comment period has expired.



- iv. *Denial of a Proposed Action.* Any denial of a project or nonproject action using SEPA policies and rules may be appealed to the Hearing Examiner within fourteen (14) days following the final administrative decision.
  - c. For any appeal under this subsection the City shall keep a record of the appeal proceedings, which shall consist of the following:
    - i. Findings and conclusions; and
    - ii. Testimony under oath; and
    - iii. A taped or written transcript.
  - 3. The City shall give official notice under WAC [197-11-680](#) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal.
- LMC. [Ord. 794 § 2 (Exh. A), 2023; Ord. 738 § 2 (Exh. A), 2020; Ord. 726 § 2 (Exh. B), 2019.]

**Commented [AS34]:** See previous comment on 18A.20.400(A) regarding potential revisions to address SEPA requirement. This language also contradicts so refinement is needed here.

**Commented [AS35]:** Redundant with revisions to section A

**18A.20.410 Appeals to hearing examiner.**

See Chapters [1.36](#) and [1.38](#) LMC [Ord. 726 § 2 (Exh. B), 2019.]

**18A.20.420 Reconsideration of hearing examiner decision.**

See Chapters [1.36](#) and [1.38](#) LMC [Ord. 726 § 2 (Exh. B), 2019.]

**18A.20.430 Clarification of hearing examiner decision.**

See Chapters [1.36](#) and [1.38](#) LMC. [Ord. 726 § 2 (Exh. B), 2019.]

**18A.20.440 No appeals to City Council.**

There are no appeals from the Hearing Examiner to the City Council. [Ord. 726 § 2 (Exh. B), 2019.]





## Chapter 18A.30 DISCRETIONARY PERMITS

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**Building design standards.**

**18A.30.280**

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**18A.30.290**

**Common area maintenance.**

**Commented [AS36]:** Additional consistency revisions will be needed as we refine our approach. For example, in the Comp Plan Update, the PC materials does propose revisions to this chapter under Article I, III, VIII



- 18A.30.300 Low impact development standards.
- 18A.30.310 Modifications.

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- 18A.30.530 Purpose.
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- 18A.30.670 Authority.
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- 18A.30.690 Collection of rezone applications.
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- 18A.30.700 Purpose.
- 18A.30.710 Permitted uses.
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- 18A.30.730 Application and authorization.
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#### *Article IX. (Reserved)*

#### Article X. Variance

- 18A.30.840 Purpose.
- 18A.30.850 Process type of action.
- 18A.30.860 Limitations.
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#### Article XI. Unusual Uses

- 18A.30.890 Purpose.
- 18A.30.900 Process type of action.

#### **18A.30.005 Definitions.**

See LMC [18A.10.180](#) for definitions relevant to this chapter. [Ord. 726 § 2 (Exh. B), 2019.]

## Article I. Comprehensive Plan Amendment

### 18A.30.010 Type of action.

A. A comprehensive plan map or text amendment (may include associated rezone) is a Type V legislative action as set forth in Chapter [18A.20](#) LMC, Administration. [Ord. 726 § 2 (Exh. B), 2019.]

### 18A.30.020 Plan amendment procedures – Comprehensive plan.

Individual and agency initiated proposals to amend the Lakewood Comprehensive Plan shall be submitted to the Department on forms provided by the City. Proposals may be submitted at any time; however, to be considered in the same calendar year, they must be submitted by the deadline set by the City Council, unless otherwise specifically authorized by the City Council. All proposals shall be considered collectively once each year except in the case of an emergency as determined by the City Council (see LMC [18A.30.090](#), Timing and exemptions). The comprehensive plan amendment calendar shall be approved by the City Council. No fee shall be charged at this proposal stage. The Department shall maintain a log or docket of all such proposals including a summary of the proposal, the principal proponent's name and address, the date on which the proposal was submitted, and its review status. [Ord. 726 § 2 (Exh. B), 2019.]

### 18A.30.030 Preliminary review and evaluation criteria – Comprehensive plan.

A. Prior to City Council action, the Department shall conduct a preliminary review and evaluation of proposed amendments, including rezones, and assess the extent of review that would be required under the State Environmental Policy Act (SEPA). The preliminary review and evaluation shall also include any review by other departments deemed necessary by the Department, and except as provided in Chapter [18A.30](#) LMC, Article VII, Rezone and Text Amendment, shall be based on the following criteria:

1. Is the proposed amendment consistent with the county-wide planning policies, the Growth Management Act (GMA), other state or federal law, or the Washington Administrative Code?
2. Would the proposed amendment cause little or no adverse environmental impacts and is the time required to analyze impacts available within the time frame of the standard annual review process?
3. Is sufficient analysis completed to determine any need for additional capital improvements and revenues to maintain level-of-service, and is the time required for this analysis available within the time frame for this annual review process?
4. Can the proposed amendment be considered now without conflicting with some other comprehensive plan established timeline?
5. Can the proposed amendment be acted on without significant other amendments or revisions not anticipated by the proponents and is the time required for processing those amendments or revisions available within the time frame of this annual review process?
6. If the proposed amendment was previously reviewed, ruled upon or rejected, has the applicant identified reasons to review the proposed amendment again?



B. If the Department determines that the answer to any of the above questions is no, it may recommend to the City Council that the proposed amendment or revision not be further processed in the current amendment review cycle. Upon direction from City Council, Department staff will inform those whose proposed amendments or revisions will not be considered because (a) impact analysis beyond the scope of the amendment process is needed; (b) the request does not meet preliminary criteria; or (c) likelihood of inclusion of the proposal in a department's work program. Proponents may resubmit proposals to the Department at any time, subject to the timelines contained in this chapter. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.30.040 Council approval of final docket – Comprehensive plan.**

A. The Department shall compile a list giving the status of all proposed amendments, including rezones, and forward the list to the City Council. The City Council shall review all such proposals, determine which are appropriate and worthy of further review and consideration, and move those to the Planning Commission for review and public hearing.

B. The list approved by the City Council shall be known as the final docket. The Department shall notify proponents of the items on the docket that will be moved to the Planning Commission for review. Proponents shall be required to submit an application and shall pay such fee as may be established by the City Council. Proponents of the proposals not moved to the Planning Commission shall also be notified of the Council's decision. Department and City initiated proposals are exempt from application fees. Information about the amendment process and the schedule shall be distributed with final application forms. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.30.050 Final review and evaluation – Comprehensive plan.**

A. The Department shall distribute the final docket of proposed amendments, including rezones, to any state or local agency which is required by law to receive notice of proposed amendments and revisions to the comprehensive plan and implementing development regulations within the time required. In addition, the Department shall distribute the final docket of proposed amendments to recognized neighborhood associations and other affected interests identified by the City Council. The Department shall include issues identified in amendment proposal analyses and conduct any review required by SEPA of the proposed amendments, including rezones, listed on the final docket.

B. The Department shall prepare a report including any recommendations on each proposed amendment, including rezones, on the final docket and forward the report to the Planning Commission. At a minimum the Planning Commission recommendation and the Council decision should address the following:

1. Does the proposed amendment or revision maintain consistency with other plan elements or development regulations? If not, are amendments or revisions to other plan elements or regulations necessary to maintain consistency with the current final docket that will be considered by the Planning Commission and the City Council?
2. Is the proposed amendment or rezone consistent with the goals of the comprehensive plan?



3. Is the proposed amendment or revision consistent with the county-wide planning policies?
4. Does the proposed amendment or rezone comply with the requirements of the GMA?  
[Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.30.060 Decision criteria for rezone requests – Comprehensive plan.**

The following criteria will be used to evaluate each rezone request. A zoning map amendment shall only be approved if the Council concludes that at minimum the proposal complies with subsections (A) through (C) of this section. To be considered are whether:

- A. The rezone is consistent with either the comprehensive plan including the Plan's Future Land Use Map as described in LMC [18A.30.070](#) or with a concurrently approved amendment to the plan.
- B. The rezone will maintain the public health, safety, or welfare.
- C. The rezone is consistent with other development regulations that implement the comprehensive plan.
- D. The rezone will result in a district that is compatible with adjoining zoning districts; this may include providing a transition zone between potentially incompatible designations.
- E. Public facilities and services existing and planned for the area are adequate and likely to be available to serve potential development allowed by the proposed zone. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.30.070 Consistency between the zoning map and the future land use map – Comprehensive plan.**

Districts on the Zoning Map shall correspond to designations of the Future Land Use Map in accordance with LMC [18A.10.120\(C\)](#) and shall be consistent with the purposes of each designation. Only such districts are deemed to be consistent with the corresponding Future Land Use map designation. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.30.080 Planning Commission and City Council review and adoption process.**

- A. Following one or more public hearings the Planning Commission shall forward its written recommendation regarding each comprehensive plan amendment and any text amendments or rezones to the City Council.
- B. The Council shall review the recommendations of the Planning Commission, may hold a public hearing, and shall decide whether to adopt, modify and adopt, reject or defer to a later date, each proposed amendment.
- C. Each proponent shall be notified by mail of all public hearings and of the Council's final decision. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.30.090 Timing and exemptions.**

- A. The City will consider proposed amendments to the comprehensive plan only once each year, except when amendments are adopted as part of:
  1. The adoption of a subarea plan;



2. The adoption or amendment of a shoreline master program under the procedures set forth in Chapter [173-26](#) WAC;
  3. The response to an existing emergency;
  4. Amendments necessitated by changes in state or federal laws;
  5. The resolution of an appeal filed with the Growth Management Hearings Board or with a court; or
  6. The amendment of a capital facilities element that occurs concurrently with the adoption or amendment of the City budget.
- B. The Department will accept proposals for comprehensive plan amendments and revisions at any time; however, proposals or applications received after their established due dates will be considered in the next annual amendment review cycle. [Ord. 726 § 2 (Exh. B), 2019.]

### **18A.30.100 Notice to County Assessor of changes in comprehensive plan and development regulations.**

The Director shall provide to the Assessor of Pierce County by July 31st of each year a copy of the City's comprehensive plan and development regulations in effect on July 1st of that year. [Ord. 726 § 2 (Exh. B), 2019.]

## **Article II. Administrative Conditional Use Permit and Hearings Examiner Conditional Use Permit**

### **18A.30.110 Purpose.**

The purpose of this article is to establish the criteria for approval for conditional use permits, whether approved administratively or by the Hearings Examiner. As established in LMC Chapter 18A.40 Land Uses and Interpretation Tables, conditional use permits, whether approved administratively or by the Hearings Examiner are required for land uses which are appropriate in a zone but typically have certain characteristics such as traffic generation or building mass which warrant imposition of special conditions to ensure compatibility with surrounding properties and overall intent of the Comprehensive Plan. [Ord. 726 § 2 (Exh. B), 2019.]

### **18A.30.120 Type of action.**

As set forth in the procedures in Chapter [18A.20](#) LMC, Administration, the Department or Hearings Examiner, may approve, approve with conditions or deny an administrative conditional use permit or conditional use permit. The Planning and Public Works Director may delegate review and approval of Administrative Conditional Use Permits. [Ord. 726 § 2 (Exh. B), 2019.]

### **18A.30.130 Criteria for approval.**

An administrative conditional use permit or conditional use permit shall be granted by the appropriate review authority, only if the applicant demonstrates that the proposed project will not:

1. Adversely affect the established character of the surrounding vicinity. For the purposes of this section, character shall mean the distinctive features or attributes of buildings and



site design on adjacent properties and in the vicinity and as articulated in the comprehensive plan, including but not limited to building facade, length, building modulation, building height, roof form, tree cover, types of flora, location of landscaping, size and location of signs, setbacks, amount and location of parking, fencing type, height and location, and the like;

- 2. Be detrimental to the public health, safety and general welfare; and
- 3. Be injurious to the property or improvements adjacent to, and in the vicinity of, the site upon which the proposed use is to be located.

A. In granting the proposal, the Department or Hearings Examiner shall ensure the proposed project will be:

- 1. Consistent with the Lakewood Comprehensive Plan and applicable subarea plans.
- 2. Complies with applicable requirements as set forth in LMC at the time of application completeness.
- 3. The proposal is compatible with and incorporates specific features, conditions or revisions to ensure compatibility with the intensity and character of the property and the immediate vicinity.
- 4. The proposed use is not materially determinantal to future land uses, transportation and public facilities in which it can be adequately served.

5. The proposed use will not introduce hazardous conditions at the site that cannot be mitigated so as to protect adjacent properties, the vicinity, and the public health, safety and welfare.

6. The conditions set forth are necessary to mitigate the adverse impacts of the proposed project to the environment and adjacent properties. [Ord. 726 § 2 (Exh. B), 2019.]

### **18A.30.150 Minor and major modifications.**

Modification to an approved administrative conditional use or conditional use permits shall be processed in accordance with the procedures and criteria for such actions as set forth in LMC Chapter 18A.20.

**Commented [AS37]:** Duplicative of subsection 130.

**Commented [AS38]:** Revise based on 18A.20 minor/major. Refer back to 18A.

### **18A.30.160 Time frame for submission of construction permits.**

A complete application of all required construction level permits shall have been submitted to the City for approval within the expirations dates established in LMC Chapter 18A.20 for administrative conditional use and conditional use permits. [Ord. 726 § 2 (Exh. B), 2019.]

**Commented [AS39]:** Don't fully understand why this is needed if 18A.20 notes procedures for public notice procedures and framework (Article III, 18A.30.300 and 310)

### **18A.30.180 Compliance .**

Noncompliance with the conditions of either an administrative conditional use or condition use permits shall be grounds for rehearing before the Hearing Examiner, in addition to fines and penalties. The Hearing Examiner may suspend or revoke a conditional use permit pursuant to this section and/or impose penalties for violation of any of the provisions of this title or original conditions of approval. [Ord. 726 § 2 (Exh. B), 2019.]

**Commented [AS40]:** Need to update this section and ideally refer to Code Compliance codes but so far couldn't find them. The question I'm trying to resolve is if we reestablish a ACUP, should that decision to be revoked, etc go to the Department Director or HEX?

**Commented [BG41R40]:** I think it makes sense to go to HEX. If HEX has to evaluate appeals, it makes sense they would also evaluate revocations?



### 18A.30.190 Transferability .

An administrative conditional use permit or conditional use permit shall be transferable; provided, that the transferee complies with the conditions. If at any time the permit no longer complies with the conditions of approval, the owner shall be declared in violation of this title and shall be subject to fines and penalties, and the Hearing Examiner may suspend or revoke the permit. [Ord. 726 § 2 (Exh. B), 2019.]

### 18A.30.200 Essential public facilities – Conditional use permit.

A conditional use permit is required for all essential public facilities as listed in LMC [18A.40.060\(A\)](#). In addition to the regular conditional use permit review criteria, essential public facilities are subject to additional criteria as outlined in LMC [18A.40.060\(B\)\(2\)](#). Mental health essential public facilities are also subject to LMC [18A.40.060\(B\)\(4\)](#) through [18A.40.060\(B\)\(11\)](#). [Ord. 726 § 2 (Exh. B), 2019.]

**Commented [BG42]:** Why wouldn't we put the criteria from 18A.40.060 into this section? This is where the CUP criteria live and it makes sense to list the different types of criteria for different CUPS all in one place.

**Commented [AS43R42]:** EPPs have specific approval criteria above and beyond. Ok with current code organization given scope of ESSB 5290 code amendments.

### 18A.30.210 Special needs housing .

A conditional use permit is required for all special needs housing listed as conditional uses in LMC [18A.40.120](#). [Ord. 789 § 2 (Exh. A), 2023; Ord. 726 § 2 (Exh. B), 2019.]

**Commented [AS44]:** Circle back to this as the Comp Plan Update although not specifically proposed at this time draft amendment package for PC consideration.

**Commented [AS45R44]:** Not fully certain we need a section to say look at the use table in another chapter. Seems not necessary too.

## Article III. Cottage Housing

### 18A.30.220 Purpose – Cottage housing.

Cottage housing provides for a specific residential development type (“cottage housing”) featuring modestly sized single-family detached residences with commonly held community amenities, and oriented around commonly held open-space areas. Specific design standards must be met. An increase in allowable density over the maximum density allowed in the underlying zoning district is provided as an incentive to encourage development of this type of housing, and in recognition of the reduced impacts expected from this type of housing versus typical single-family residential development. This housing type is intended to:

- A. Promote a variety of housing choices to meet the needs of a population diverse in age, income, household composition, and individual needs.
- B. Provide opportunities for more affordable housing choices within single-family neighborhoods.
- C. Encourage creation of functional usable open space in residential communities.
- D. Promote neighborhood interaction and safety through design.
- E. Ensure compatibility with neighboring land uses.
- F. Provide opportunities for infill development that supports the growth management goal of more efficient use of urban residential land. [Ord. 726 § 2 (Exh. B), 2019.]

**Commented [BG46R44]:** Only seems relevant if there are specific criteria to evaluate the use. Otherwise I agree, it could be removed

### 18A.30.230 Applicability.

A. Cottage housing is permitted in the [R1, R2, R3 and R4 zoning districts](#). The provisions of individual zoning districts shall be applicable to cottage housing developments; provided, that where a conflict exists, the provisions of this section shall have control.

**Commented [BG47]:** Are the names of these zones being changed due to the other updates?



B. A cottage housing permit is a Type II administrative permit and shall be considered in accordance with the procedures for such permits as set forth in Chapter [18A.20](#) LMC, Administration. [Ord. 726 § 2 (Exh. B), 2019.]

### 18A.30.240 General provisions.

A. Cottage housing projects are permitted with the approval of a cottage housing development plan. Discrete ownerships may only be created through the residential binding site plan and/or condominium declaration process pursuant to Chapter [64.34](#) RCW as applicable. Cottage housing development plans shall be subject to review and approval as an administrative review Process Type II permit procedure. Adherence to all applicable development standards shall be determined by the City's Planning and Public Works Director as a component of the review process.

B. Individual cottage units shall contain at least eight hundred (800) and no more than one thousand five hundred (1,500) square feet of gross floor area. A covenant restricting any increases in unit size after initial construction shall be recorded against the property. Vaulted space shall not be converted into habitable space.

C. A community building of up to two thousand five hundred (2,500) square feet in size may be provided for the residents of the cottage housing development. Roof pitch, architectural themes, materials and colors shall be consistent with those of the dwelling units within the cottage housing development.

D. Accessory dwelling units shall not be permitted in cottage housing developments. [Ord. 726 § 2 (Exh. B), 2019.]

Commented [BG48]: Planning and Public Works

Commented [BG49]: Would this need to change for HB1337?

### 18A.30.250 Development standards.

Cottage housing development shall be subject to the following development standards:

A. *Density.*

1. In the R1 and R2 zoning districts, cottage housing development shall be allowed a density not to exceed three (3) times the base density allowed in the underlying zone.
2. In R3 and R4 zoning districts, cottage housing developments shall be allowed a density not to exceed two (2) times the base density allowed in the underlying zone.
3. On a site to be used for a cottage housing development, existing detached single-family residential structures, which may be nonconforming with respect to the standards of this section, may be permitted to remain at the discretion of the Community Development Director, but the extent of the nonconformity shall not be increased. The number of any such nonconforming dwelling unit(s) shall be multiplied by the factors noted in subsections [\(A\)\(1\)](#) or [\(A\)\(2\)](#) of this section, and included in calculating the density of the cottage housing development.
4. An applicant for a cottage housing development shall be required to show, through a conceptual site plan, the number of traditional units that could be constructed on the site under conventional development standards and addressing any environmental constraints affecting the property. This number of units shall be used to calculate the maximum number of cottage units that may be constructed on the property.

B. *Locational Criteria.*



1. The minimum area for a cottage housing project is three-fourths (0.75) acre, which may include more than one contiguous lot.
  2. Cottage housing development shall be separated from another cottage housing development by a minimum of four hundred (400) feet measured between the closest points of the subject properties.
- C. *Site Design.*
1. Cottage housing development shall be clustered and shall consist of a minimum of four (4) dwelling units and a maximum of twelve (12) dwelling units.
  2. At least seventy-five (75) percent of dwelling units shall abut the common open space.
  3. Common open spaces shall have dwelling units abutting at least two (2) sides.
  4. Creation of individual lots shall only be permitted through the residential binding site plan process provided in LMC Title [17](#) Subdivisions, Chapter [17.34](#) LMC and Chapter [64.34](#) RCW.
  5. Siting of dwelling units or common open space in areas with slopes exceeding fifteen (15) percent is discouraged. Dwelling units shall not be placed in such areas if extensive use of retaining walls is necessary to create building pads or open space areas.
  6. *Fencing and Screening.* The intent of internal decorative fencing and screening is to delineate private yards, screen parking areas and structures, community assets, refuse and recycling areas, and unit walls. A cottage housing development is intended to be an internally open community sharing common areas. The intent of external fencing and screening is to conceal the higher density development from adjacent lower density land uses. Chain link and solid fences shall not be allowed internally. Solid fencing is allowed on the perimeter boundary, except where bordering an external street where streetscape landscaping is required.
- D. *Setbacks and Building Separation.*
1. Dwelling units shall have at least a twenty (20) foot front setback, eight (8) foot side yard setback and a ten (10) foot rear setback.
  2. Dwelling units shall be separated from one another by a minimum of ten (10) feet, not including projections.
  3. Dwelling units shall maintain a ten (10) foot separation between buildings.
  4. Dwelling units not abutting or oriented toward a right-of-way shall have a front yard oriented towards the common open space.
  5. The approval authority may use appropriate discretion, consistent with the intent of this chapter, in determining orientation of yards.
- E. *Minimum Lot Size.* Beyond the density restrictions listed in this chapter, there is no required minimum lot size for lots created through the subdivision process.
- F. *Lot Coverage (All Impervious Surfaces).* Impervious surfaces shall not exceed fifty (50) percent. Lot coverage shall be calculated for the overall cottage housing development, not for individual lots. Paved components of common open space areas and walkways shall not be counted in lot coverage calculations.
- G. *Refuse and Recycling.* Refuse and recycling containers shall be screened from view by landscaping or architectural screening, and shall not be located in the front yard setback area, or in locations where smells may be offensive to adjacent properties.



H. *Pedestrian Network.* Within the confines of the cottage housing development a network of pedestrian pathways shall be provided. Connections to the wider neighborhood shall be made where appropriate and allowed. All such pathways shall be accessible by the general public, except that walkways into and through the cottage housing development may be limited to residents and their guests. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.30.260 Open space.**

- A. A minimum of five hundred (500) square feet of common open space shall be provided per dwelling unit.
- B. Common open space shall be a minimum of three thousand (3,000) square feet in size, regardless of number of dwelling units.
- C. No dimension of a common open space area used to satisfy the minimum square footage requirement shall be less than ten (10) feet, unless part of a pathway or trail.
- D. In subdivisions and short subdivisions, common open space shall be located in a separate tract or tracts.
- E. Required common open space shall be divided into no more than two (2) separate areas per cluster of dwelling units.
- F. Common open space shall be improved for passive or active recreational use. Examples may include but are not limited to courtyards, orchards, landscaped picnic areas or gardens. Common open space shall include amenities such as but not limited to seating, landscaping, trails, gazebos, barbecue facilities, covered shelters or water features.
- G. Surface water management facilities may be commonly held, but shall not counted toward meeting the common open space requirement.
- H. Parking areas, required setbacks, private open space, and driveways do not qualify as common open space area.
- I. Landscaping located in common open space areas shall be designed to allow for easy access and use of the space by all residents, and to facilitate maintenance needs. Where feasible, existing mature trees should be retained. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.30.270 Building design standards.**

A cottage housing development is expected to reflect a coherent and high quality design concept and include architectural elements that ensure compatibility with existing neighborhood development and character. The following design elements are intended to provide compatibility with existing residential environments. Alternative designs may be submitted to the Community Development Director for review and approval, but the Community Development Director must find that any such concepts meet or exceed the design quality of the prescriptive standards, and fulfill the stated purpose and intent of this chapter.

- A. *Building Height.*
  - 1. The maximum building height for dwelling units shall be twenty-five (25) feet.
  - 2. The maximum building height for garages, community buildings, and accessory structures shall be eighteen (18) feet.
- B. *Roofs.*



1. Dwelling units shall have a minimum six to twelve (6:12) roof pitch. Up to thirty-five (35) percent of roof area may have a slope not less than four to twelve (4:12). Portions of a roof with a pitch of less than six to twelve (6:12) shall be limited to architectural features such as dormers, porch roofs and shed roofs.
2. Garages and carports shall have a minimum six to twelve (6:12) roof pitch.
3. Cottages shall be a maximum of two (2) stories. Any upper floor shall be located within the roof structure, not below it, in order to reduce building massing as much as possible.

C. *Entries and Porches.*

1. Each dwelling unit abutting a public right-of-way (excluding alleys) shall have a primary entry and covered porch a minimum of eighty (80) square feet in size, oriented toward the public right-of-way. If abutting more than one (1) public right-of-way, the developer and City shall collaborate with the project proponent to determine which right-of-way the entrance and covered porch shall be oriented toward.
2. Each dwelling unit shall have an entry and covered porch oriented toward the common open space. If the dwelling unit abuts a public right-of-way, this may be a secondary entrance, and the minimum porch size shall be fifty (50) square feet. If not abutting a public right-of-way, this shall be the primary entrance, and the minimum porch size shall be eighty (80) square feet.
3. Covered porches shall be a minimum of six (6) feet deep.

D. Dwelling units shall not include attached garages.

E. *Detached Garages.* Each dwelling unit shall have no more than one (1) detached garage. The size of the garage shall not exceed two hundred fifty (250) gross square feet in size. Garages can be combined into one (1) garage structure; however, no garage structure may exceed one thousand (1,000) square feet in size for a total not to exceed four (4) garage spaces.

F. *Planning and Public Works Review.* The Planning and Public Works shall consider all aspects of the project, and shall ensure that the project is well designed and compatible with existing and planned development in the vicinity. Possible topics for review by the Department include (but are not necessarily limited to): building materials and finishes, articulation and modulation, massing, trim details, colors, exterior lighting, special building heights, paving materials, mechanical equipment screening, fencing, tree retention and landscaping. [Ord. 726 § 2 (Exh. B), 2019.]

### **18A.30.280 Parking.**

- A. A minimum of two (2) parking spaces per cottage shall be provided for the entire development. An additional fifteen (15) percent of total required spaces shall be designated for guests.
- B. All or a portion of new on-street parking provided as a component of the development may be counted towards minimum parking requirements if the approval authority finds that such parking configuration will result in adequate parking, and is compatible with the character and context of the surrounding area.
- C. Carports are prohibited in cottage housing development.
- D. *Shared Detached Garages and Surface Parking Design.* Parking areas should be located so their visual presence is minimized and associated noise or other impacts do not intrude into public spaces. These areas should also maintain the single-family character along public streets.



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1. Shared detached garage structures may not exceed four (4) garage doors per building, and a total of one thousand (1,000) square feet.
2. For shared detached garages, the design of the structure must be similar and compatible to that of the dwelling units within the development.
3. Shared detached garage structures and surface parking areas must be screened from public streets and adjacent residential uses by landscaping consistent with LMC [18A.60.160](#), or architectural screening.
4. Shared detached garage structures shall be reserved for the parking of vehicles owned by the residents of the development. Storage of items which preclude the use of the parking spaces for vehicles is prohibited.
5. Surface parking areas may not be located in clusters of more than four (4) spaces. Clusters must be separated by a distance of at least twenty (20) feet.
6. The design of garages must include roof lines similar and compatible to that of the dwelling units within the development.
7. Parking lots shall be set back at least twenty (20) feet from front property lines and ten (10) feet from external side and rear property lines.
8. Garage doors shall not be oriented toward a public right-of-way with the exception of an alley.
9. Garages shall not be located between the common open space and the dwelling units. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.30.290 Common area maintenance.**

Cottage housing development shall be required to implement a mechanism, acceptable to the approval authority, to ensure the continued care and maintenance of all common areas including common open space, parking, surface water management facilities (if applicable) and any other common area or shared facilities. Such a mechanism shall include creation of either a homeowners' or condominium association with authority and funding necessary to maintain the common areas. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.30.300 Low impact development standards.**

A. The proposed site design shall incorporate the use of low impact development (LID) strategies to meet storm water management standards. LID is a set of techniques that mimic natural watershed hydrology by slowing, evaporating/transpiring, and filtering water, which allows water to soak into the ground closer to its source. The design should seek to meet the following objectives:

1. Preservation of natural hydrology.
2. Reduced impervious surfaces.
3. Treatment of storm water in numerous small, decentralized structures.
4. Use of natural topography for drainage ways and storage areas.
5. Preservation of portions of the site in undisturbed, natural conditions.
6. Reduction of the use of piped systems.

B. Whenever possible, site design should use multifunctional open drainage systems such as vegetated swales or filter strips which also help to fulfill landscaping and open space requirements. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.30.310 Modifications.**

A. Applicants may request modifications to the open space, site design, design standards, setbacks and parking provisions of this chapter. The approval authority may modify the above referenced provisions of this chapter if both of the following apply:

1. The site is constrained due to unusual shape, topography, easements or critical areas; and
2. The modification will not result in a project that is less compatible with neighboring land uses than would have occurred under strict adherence to the provisions of this chapter.

B. The approval authority may permit modifications to the building design standards if it finds the alternative design concept provides a high level of design quality and compatibility with the character of the surrounding neighborhood. [Ord. 726 § 2 (Exh. B), 2019.]

### **Article IV. Development Agreement**

#### **18A.30.320 Authority.**

A. The execution of a development agreement is a proper exercise of City police power and contract authority. The City may consider, and enter into, a development agreement with a person having ownership or control of real property within the City limits. The City may consider a development agreement for real property outside of the City limits but within the urban growth area ("UGA," as defined in RCW [36.70A.030\(15\)](#)), or as designated by the county pursuant to RCW [36.70A.110](#) as part of a proposed annexation or a service agreement.

B. A development agreement shall be consistent with applicable development regulations adopted by the City under Chapter [36.70A](#) RCW. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.30.330 Process type of action.**

A development agreement shall be considered in accordance with the procedures for such permits as set forth in Chapter [18A.20](#) LMC, Administration. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.30.340 Content.**

- A. The development agreement must include the following:
1. The development standards and other provisions that shall apply to and govern and vest the development, use and mitigation of the development of real property for the duration of the agreement;
  2. Project components which define and detail the permitted uses, residential densities, nonresidential densities and intensities, building sizes, or nonresidential floor area;
  3. Location of buffers, landscaping or open space;
  4. The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, local ordinance, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications;

**Commented [AS50]:** 18A.20 does not change from a Type V. The revision here is for future permit procedure refinements to be in 18A.20 versus the process type sprinkled throughout the code. This is a process improvement for future code amendments.



5. Mitigation measures, development conditions and other requirements of Chapter [43.21C](#) RCW;
  6. Design standards such as architectural treatment, maximum heights, setbacks, landscaping, drainage and water quality requirements and other development features;
  7. Provisions for affordable housing;
  8. Parks and common open space preservation;
  9. Review procedures and standards for implementing decisions;
  10. A build-out or vesting period for application standards;
  11. Any other appropriate development requirement or procedure which is based upon a City policy, rule, regulation or standard; and
  12. Phasing.
- B. The development agreement shall reserve authority to impose new or different regulations to the extent required by a serious threat to the public health or safety. [Ord. 726 § 2 (Exh. B), 2019.]

### 18A.30.350 Application.

Consideration of a development agreement may be initiated by City Council, City staff, or applicant. Any person may personally, or through an agent, propose a development agreement regarding property he or she owns. The applicant shall file a complete development agreement application pursuant to LMC 18A.20. At minimum, such application shall include a copy of the proposed agreement, applicable fee, names and address of all current owners of real property, and all real property within three hundred (300) feet of each boundary of the subject property as shown in the records of the County Assessor, and a vicinity map showing the subject property with enough information to locate the property within the larger area. In addition, the applicant may be required to submit any additional information or material that the Director determines is reasonably necessary for a decision on the matter. [Ord. 726 § 2 (Exh. B), 2019.]

**Commented [BG51]:** Are we asking the applicant to draft the NOA for us?

**Commented [AS52R51]:** I don't interpret this as the applicant prepares the and notices the NOA, but rather gives us information for inclusion into the NOA.

### 18A.30.360 Timing of public hearings.

Any development agreement associated with a specific project or development plan shall be heard by the City Council prior to consideration of any related project application. [Ord. 726 § 2 (Exh. B), 2019.]

### 18A.30.370 Notice.

Public notice shall be in conformance with the procedures outlined in LMC 18A.20.

### 18A.30.380 Staff report.

The Director or their designee shall prepare a staff report for the public hearing by the City Council containing all pertinent application materials, all comments regarding the matter received by the Department prior to distribution of the staff report, an analysis of the application under the relevant provisions of this chapter and state law, and a recommendation on the matter. At least seven (7) calendar days before the hearing, the Department shall distribute the staff report to the applicant and parties of record. [Ord. 726 § 2 (Exh. B), 2019.]



### **18A.30.390 Public hearing and City Council action.**

The City Council shall consider the proposed development agreement at and following the public hearing. The decision of the City Council on a development agreement is the final decision of the City. Notice of the final decision by the City Council shall be mailed to the applicant, to any person who submitted comments to the City Council, and to any other person who has specifically requested it. A development agreement shall be recorded with the Pierce County Records Department. [Ord. 726 § 2 (Exh. B), 2019.]

### **18A.30.400 Term of agreement.**

During the term of the development agreement, the agreement is binding on the parties and their successors. Unless amended or terminated, a development agreement is enforceable during its term by a party to the agreement. The development agreement and the development standards in the agreement govern during the term of the agreement, or for all or part of build-out period specified in the agreement, and may not be subject to an amendment to a zoning ordinance, development standard, or regulation adopted after the effective date of the agreement. A permit or approval issued by the City after the execution of the development agreement shall be consistent with the development agreement. Amendments to the terms of the development agreement shall be done only by a written instrument executed by all parties pursuant to the procedures of this article, or as may be amended. The City will process and decide upon an application for an amendment upon payment of applicable fees, as if it were an application for a new development agreement. [Ord. 726 § 2 (Exh. B), 2019.]

## **Article V. Land Use Review and Approval**

### **18A.30.410 Purpose – Land use review and approval.**

The purpose of this section is to allow for the placement of uses permitted by this title of the Lakewood Municipal Code through a comprehensive land use review process which insures compliance with the adopted plans, policies and ordinances of the City of Lakewood. It is further intended to provide for the examination of development proposals with respect to overall site design and to provide a means for guiding development in logical, safe and attractive manners. [Ord. 726 § 2 (Exh. B), 2019.]

**Commented [BG53]:** Is "Land Use Review" in LMC referring to "Site Plan Review" specifically and does not actually refer to all types of land use actions? Would love clarity on this

### **18A.30.420 Process type of action.**

Land use review and approval shall be considered in accordance with the procedures for such permits as set forth in Chapter [18A.20](#) LMC, Administration. [Ord. 726 § 2 (Exh. B), 2019.]

**Commented [AS54]:** Revise based on 18A.

### **18A.30.430 Applicability.**

Construction and development of projects reviewed through the land use approval process shall be in strict compliance with the approved site plan and conditions attached thereto. When required by this section, site plan review and land use approval shall be completed and all appeal periods terminated prior to issuance of a building or any other construction permit. Land use approval is required for the following types of projects:

A. Any change of occupancy of a building from one International Building Code group or division of a group to another or a change of use of land;



- B. Any new nonresidential and nonagricultural use of land;
- C. The location or construction of any nonresidential or nonagricultural building, or any multifamily project in which more than four (4) dwelling units would be contained; and
- D. Any addition to such structure or remodel or substantial revision of the site plan associated with such use. [Ord. 726 § 2 (Exh. B), 2019.]

**18A.30.440 Delegation of authority.**

The Director may delegate review and approval of a proposed land use and associated improvements to the Fire Marshal, Planning Manager, Building Official and/or City Engineer, as deemed appropriate by the Director. [Ord. 726 § 2 (Exh. B), 2019.]

**18A.30.450 Application – Content.**

Each application for land use approval shall contain all required information as set forth in the approved land use application together with the following information:

- A. A complete environmental checklist, when required by the State Environmental Policy Act;
- B. All fees, signatures and information specified in the approved application form;
- C. Complete application(s) for all associated nonconstruction approvals or permits required by this code, including but not limited to concept design review, conditional use approval, shoreline development, site plan review, variance, preliminary plat approval, and rezone. [Ord. 726 § 2 (Exh. B), 2019.]

**18A.30.460 Application – Review process.**

A complete application shall be reviewed consistent procedures in LMC 18A.20 Administration and applicable development regulations.

**18A.30.470 SEPA.**

Procedures for SEPA shall be in conformance with the procedures established in LMC Title 14, LMC Chapter 18A.20 and Chapter 197-11 WAC.

**18A.30.480 Amendments.**

A project approved by the Departmentor Hearing Examiner may be amended at the applicant's request by the procedures provided under LMC Chapter 18A.20.

**18A.30.500 Dedication, improvements and performance bond.**

As a condition of land use approval, an applicant may be required to dedicate property, construct public improvements, and furnish a performance bond to the City to secure an obligation to complete the provisions and conditions of the project as approved. [Ord. 726 § 2 (Exh. B), 2019.]

**18A.30.510 Final approval – Expiration.**

Unless utilized by application for unexpired construction permits or explicitly extended by the Director, the final approval of a land use application shall expire in one (1) year pursuant to LMC [18A.20.100](#). [Ord. 726 § 2 (Exh. B), 2019.]

**Commented [AS55]:** Overall, I believe this section should be repealed with minor notes about process as current language is inconsistent with and would be redundant to 18A. 20 updates. If we don't want to do that at minimum we need to revise sections to be consistent with 18A.20 procedures. My recommendation is to delete with minor notations of procedure and consolidated review. Thoughts?

**Commented [AS56]:** This is redundant to procedures set forth in WAC and our code. By including it here, it can conflict with these provisions. My preference is to delete it its entry as Title 14 and WAC should dictate SEPA procedures, not 18A. But I've been deleting a lot, so welcome feedback as we walk a fine line to address 1) ESSB 5290 revisions and 2) process improvement and remove conflicts in our code.



## Article VI. Planned Development

### 18A.30.530 Purpose.

A planned development district (PDD) is a mechanism by which the City may permit a variety in type, design, and arrangement of structures; and enable the coordination of project characteristics with features of a particular site in a manner consistent with the public health, safety and welfare. A planned development district allows for innovations and special features in site development, including the location of structures, conservation of natural land features, protection of critical areas and critical area buffers, the use of low impact development techniques, conservation of energy, and efficient utilization of open space. [Ord. 726 § 2 (Exh. B), 2019.]

### 18A.30.540 Application.

A. *Process.* A PDD shall be considered in accordance with the procedures for such permits as set forth in Chapter [18A.20](#) LMC, Administration.

B. *PDD Applications.* An application for approval of a PDD shall be submitted to the Planning and Public Works Department in accordance to LMC 18A.20.030.

1. *PDD with Subdivision.* For those planned development districts that include the division of land, a PDD application shall only be accepted as complete if it is submitted concurrent with an application for preliminary plat approval that includes all information required pursuant to LMC Title [17](#) and other applicable City regulations.

2. *PDD with No Subdivision.* A binding site plan is required for all planned development districts that do not require the subdivision of land and associated preliminary plat.

Requirements for the binding site plan shall include:

- a. *Existing Plat.* All information recorded on the existing plat;
- b. *Structures.* The location of all proposed structures;
- c. *Landscaping.* A detailed landscape plan indicating the location of existing vegetation to be retained, location of vegetation and landscaping structures to be installed, the type of vegetation by common name and taxonomic designation, and the installed and mature height of all vegetation;
- d. *Schematic.* Schematic plans and elevations of proposed buildings with samples of all exterior finish materials and colors, the type and location of all exterior lighting, signs and accessory structures;
- e. *Conditions.* Inscriptions or attachments setting forth the limitations and conditions of development, as well as an outline of the documents of the owners' association, bylaws, deeds, covenants and agreements governing ownership, maintenance and operation of the planned development district, shall be submitted with the binding site plan. Planned development district covenants shall include a provision whereby unpaid taxes on all property owned in common shall constitute a proportioned lien on all property of each owner in common. The Department may require that it be a third-party beneficiary of certain covenants with the right but not obligation to enforce association-related documents; and



- f. *Conformity with Site Plan and Final Plat.* Provisions ensuring the development will be in conformance with the site plan and shall include all the required certificates of a final plat.
3. *PDD with a Site-Specific Rezone.* For those planned development districts that include a site-specific rezone, a PDD application shall only be accepted as complete if it is submitted concurrently with an application for a site-specific rezone that includes all information required per Chapters [1.36](#) and [1.38](#) LMC, LMC [18A.30.680](#), and other applicable City regulations.
- C. *All PDD Applications.* An applicant for a PDD shall submit the following items to the Department, unless the Director finds in writing that one (1) or more submittals are not required due to unique circumstances related to a specific development proposal:
1. *Narrative.* A detailed narrative that includes:
    - a. *Improvement.* A description detailing how the proposed development will provide a net benefit to the City under the City's land use regulations and how the approval criteria set forth in LMC [18A.30.560](#) have been satisfied;
    - b. *Public Benefit.* A description of how the proposed PDD will benefit the public in a manner greater than that achieved if the project was to be developed using conventional land use regulations;
    - c. *Density Table.* A table illustrating the density and lot coverage of the overall development, with the proportion of the site devoted to open space clearly indicated;
    - d. *Uses.* A description of the types and numbers of dwelling units proposed and the overall land use density and intensity;
    - e. *Open Space and Recreation.* A description of the proposed open space and recreation areas including any proposed improvements, including specific details regarding the ownership and maintenance of such areas;
    - f. *Landscaping.* Detailed information regarding all proposed landscaping that is not included on an associated landscaping plan;
    - g. *Modifications.* A description of the specific City standards as set forth in the underlying zoning district that the applicant is proposing for modification in accordance with Chapter [18A.20](#) LMC; and
    - h. *Impacts.* A description of potential impacts to neighboring properties and how impacts have been mitigated through site design, screening, buffering and other methods;
  2. *Site Plan.* A site plan with the heading "Planned Development District Site Plan" that includes any additional information that is not included on the standard preliminary plat map, including building footprints, proposed landscaping, open space and parks and/or recreational areas including trails and proposed setbacks;
  3. *Landscape Plan/Map.* A conceptual landscape plan/map showing the proposed location and types of vegetation and landscaping. The landscape plan may also be incorporated into the PDD site plan and narrative;
  4. *Phases.* A phasing plan, if the development will occur in distinct phases, with a written schedule detailing the timing of improvements;
  5. *Development Agreement.* A draft development agreement, if proposed by the applicant or as required by the City; and



- 6. *Conditions.* A draft of proposed covenants, conditions and restrictions demonstrating compliance with this chapter.
- D. An applicant shall provide sufficient facts and evidence to enable the Hearing Examiner to make a decision. The established fee shall be submitted at time of application.

[Ord. 738 § 2 (Exh. A), 2020; Ord. 726 § 2 (Exh. B), 2019.]

**Commented [AS57]:** Covered in revision to section A of subsection 540

### 18A.30.550 Required findings.

A PDD shall only be granted after written findings have been made that all of the standards and criteria set forth below have been met or can be met subject to conditions of approval:

- A. The PDD is consistent with the comprehensive plan; and
- B. The PDD, by the use of permitted flexibility and variation in design, is a development practice that results in better urban design features than found in traditional development. Net benefit to the City may be demonstrated by one or more of the following:
  - 1. Placement, type or reduced bulk of structures, or
  - 2. Interconnected usable open space, or
  - 3. Recreation facilities, or
  - 4. Other public facilities, or
  - 5. Conservation of natural features, or
  - 6. Conservation of critical areas and critical area buffers beyond, or
  - 7. Aesthetic features and harmonious design, or
  - 8. Energy efficient site design or building features, or
  - 9. Use of low impact development techniques;
- C. The PDD results in no greater burden on present and projected public utilities and services than would result from traditional development and the PDD will be served by adequate public or private facilities including streets, fire protection, and utilities; and
- D. The perimeter of the PDD is compatible with the existing land use or property that abuts or is directly across the street from the subject property. Compatibility includes but is not limited to size, scale, mass and architectural design of proposed structures; and
- E. Landscaping within and along the perimeter of the PDD is superior to that required by LMC [18A.70.150](#), and landscaping requirements applicable to specific districts contained in LMC [18A.70.160](#), and enhances the visual compatibility of the development with the surrounding neighborhood; and
- F. At least one major circulation point is functionally connected to a public right-of-way; and
- G. Open space within the PDD is an integrated part of the project rather than an isolated element of the project; and
- H. The design is compatible with and responds to the existing or intended character, appearance, quality of development and physical characteristics of the subject property and immediate vicinity; and
- I. Roads and streets, whether public or private, within and contiguous to the site comply with guidelines for construction of streets; and
- J. Streets and sidewalks, existing and proposed, are suitable and adequate to carry anticipated traffic within the proposed project and in the vicinity of the proposed project; and

**Commented [AS58]:** 18A.20.080 should be the landing site for permit type review and approval authority. IN that section, PDDs are still approved by the HEX. This revision is desired so if that may change in the future for example, permit streamlining, multiple code amendments across chapters are not needed.



K. Each phase of the proposed development, as it is planned to be completed, contains the required parking spaces, open space, recreation space, landscaping and utility area necessary for creating and sustaining a desirable and stable environment.

L. In permitting a PDD, additional conditions may also be imposed as follows:

1. Limit the manner in which the use is conducted, including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
2. Establish a special yard or other open space or lot area or dimension.
3. Limit the height, size or location of a building or other structure.
4. Designate the size, number, location or nature of vehicle access points.
5. Increase the amount of street dedication, roadway width or improvements within the street right-of-way.
6. Designate the size, location, screening, drainage, surfacing or other improvement of parking or truck loading areas.
7. Limit or otherwise designate the number, size, location, and height of lighting of signs.
8. Limit the location and intensity of outdoor lighting or require its shielding.
9. Require screening, landscaping or another facility to protect adjacent or nearby property and designate standards for installation or maintenance of the facility.
10. Design the size, height, location or materials for a fence.
11. Protect existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
12. Require provisions for public access, physical and visual, to natural, scenic and recreational resources.
13. Require provisions for storm water drainage including designating the size, location, screening, or other improvements of detention ponds and other facilities.
14. Impose special conditions on the proposed development to ensure that development is in conformance with the surrounding neighborhood and the intent and purpose of the zoning district classification.
15. Require such financial guarantees and evidence that any applied conditions will be complied with.

[Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.30.560 Minimum size.**

Planned development districts may be located on lots of two (2) acres or greater; when necessary, the applicant must demonstrate the preservation of a significant natural feature (examples: wetlands, tree preservation, creeks and steep slopes), enhanced urban design, or amenity by the use of the planned development district process. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.30.570 Permitted modifications.**

All zoning, site development, and subdivision requirements may be modified in a planned development district in the interest of the expressed purposes above except:

- A. Permitted uses and conditional uses;
- B. Street setbacks on exterior streets in residential zones;



- C. Surveying standards; and
- D. Engineering design and construction standards of public improvements but not including street right-of-way width. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.30.580 Permitted residential density and lot sizes.**

A. The number of dwelling units permitted in a planned development district may exceed the development standards found in LMC [18A.60.030](#). The permitted density shall be the maximum number of dwelling units allowed per gross acre (DUA) and shall be as follows:

1. R1 zoning district: 4 DUA;
2. R2 zoning district: 4 DUA;
3. R3 zoning district: 7 DUA;
4. R4 zoning district: 9 DUA.

B. The minimum lot sizes in gross square feet (GSF) for the residential zoning districts subject to the planned development district overlay shall be as follows:

1. R1 zoning district: 10,000 GSF;
2. R2 zoning district: 10,000 GSF;
3. R3 zoning district: 6,000 GSF;
4. R4 zoning district: 4,800 GSF.

C. The residential density and lot size standards of all other zoning districts are not subject to change. [Ord. 738 § 2 (Exh. A), 2020; Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.30.590 Required open space and recreation facilities.**

In planned development districts, twenty (20) percent of the net development area shall be established as open space and/or planned development district community recreation facilities. Upon approval of the Hearing Examiner, up to five (5) percent of the unbuildable land may be considered for inclusion in the required open space land upon a showing that such lands can and will be used for a specified recreational purpose. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.30.600 Multiple zoning districts.**

If a planned development district is proposed within two (2) or more zoning districts, the maximum number of dwelling units will be the total allowed in each zone combined. The permitted land uses of the more restrictive zone shall apply to the entire planned development district. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.30.610 Phased development.**

If a planned development district is planned to be completed in more than two (2) years from the date of preliminary plat/site plan approval, the planned development district will be divided into phases or divisions of development, numbered sequentially in the order construction is to occur. The binding site plan for each phase shall be approved separately. Each division of development in a multiphase planned development district shall meet all the requirements of a planned development district independently. [Ord. 726 § 2 (Exh. B), 2019.]

**Commented [BG59]:** Needs to be updated to reflect new density proposed



## Article VII. Rezone and Text Amendments

### 18A.30.670 Authority.

The City Council may, upon its own motion, amend, supplement or change by ordinance, any of the provisions, use district boundaries or use district classifications herein established.

In the case of site-specific rezones which do not require a comprehensive plan amendment, and privately initiated rezones which require a comprehensive plan amendment, the Council shall first review the recommendation of the Planning Commission.

Accordingly, the Department shall forward all proposed text amendments and rezone, i.e., zoning map amendment, proposals to the Planning Commission for review and recommendation, and to the City Council for consideration, review and action. [Ord. 726 § 2 (Exh. B), 2019.]

### 18A.30.680 Site-specific rezone procedures.

In the case of site-specific rezones which do not require a comprehensive plan amendment, the rezone application review shall follow the procedures outlined in this chapter and in LMC

[18A.20.310](#). [Ord. 726 § 2 (Exh. B), 2019.]

### 18A.30.690 Collection of rezone applications.

Site-specific rezone applications may be submitted at any time. However, for review purposes, such proposals will be collected into two (2) sets in each calendar year. Unless otherwise specifically authorized by the City Council:

- A. Proposals submitted between April 1st and September 30th shall be considered collectively and voted upon by the City Council by March 31st of the following year.
- B. Proposals submitted between October 1st and March 31st shall be considered collectively and voted upon by the City Council by September 30th of the same year.
- C. Proposals will be considered no more than twice each year.
- D. Time limits for review shall be as established in LMC18A.20. [Ord. 726 § 2 (Exh. B), 2019.]

### 18A.30.695 Quasi-judicial rezone procedures.

#### 18A.30.695.10 Purpose.

The purpose of this chapter is to establish procedures and decision criteria which the City of Lakewood's Hearing Examiner will utilize in reviewing quasi-judicial rezone applications. [Ord. 726 § 2 (Exh. B), 2019.]

#### 18A.30.695.20 Applicability.

- A. *Parcel*. The rezone procedure set forth in this chapter is only available to parcel(s) of land that are located within areas of the City.
- B. *Planned Development District*. The Examiner may consider a rezone application only when it is accompanied with an application for a planned development district (PDD).
- C. *Comprehensive Plan*. The rezone procedure cannot be used to change the land use designation of parcels designated in the comprehensive plan. Changes in land use designation



must be requested pursuant to the provisions of Chapter [18A.30](#) LMC, Article I. [Ord. 726 § 2 (Exh. B), 2019.]

### **18A.30.695.30 Application requirements.**

A. *Preliminary Review.* The provisions for conducting a preliminary review of a proposed rezone are set forth in LMC [18A.30.030](#).

B. *Application Filing.*

1. *Completeness Review.* Rezone applications shall be reviewed for completeness in accordance to LMC [18A.20.050](#).
2. *Application Site Plan.* All rezone applications shall include a site plan that identifies the exact boundaries of the proposed rezone area. Such site plan shall also indicate the relationship of the proposed rezone to the related PDD proposal.
3. *Limitations on Refiling.* Applications for a rezone pursuant to this chapter shall not be accepted if a similar rezone has been denied on the same site within the past twelve (12) months from the date of final action. This time period may be waived or modified if the Director or Examiner finds that special circumstances warrant earlier reapplication.
4. *Fees.* Fees for any rezone application filed pursuant to this title are set forth in the City adopted official fee schedule. [Ord. 726 § 2 (Exh. B), 2019.]

### **18A.30.695.40 Public notice.**

Public notice provisions for notice of application, public hearing, and final decision pursuant to this chapter are outlined in Chapter [18A.20](#) LMC, Article III, Public Notice Requirements. [Ord. 726 § 2 (Exh. B), 2019.]

### **18A.30.695.50 Review.**

A. *Initial Review.* The Department shall conduct an initial review of any rezone application in accordance with the provisions outlined in LMC [18A.30.695.30](#).

B. *Public Hearing Required.* The Department shall set a date for a public hearing before the City Hearing Examiner after all requests for additional information or plan correction, as set forth in Chapter [1.36](#) LMC, General Provisions, and Chapter [18A.20](#) LMC, Article IV, have been satisfied and a SEPA threshold determination has been issued. The public hearing shall follow the procedures set forth in LMC [18A.30.340](#).

C. *Decision Criteria.* The Hearing Examiner may approve an application for a rezone only if all of the following criteria are met:

1. *Comprehensive Plan.* The proposed rezone is consistent with the purpose and intent of the comprehensive plan, respective community(ies) plan, PDD approval criteria contained in LMC [18A.30.560](#), and other applicable regulations;
2. *Health, Safety and Welfare.* The proposed rezone bears a substantial relation to public health, safety, or welfare;
3. *Best Interest.* The proposed rezone is in the best interest of the residents of the City and the surrounding community(ies); and
4. *Appropriate.* The proposed rezone is appropriate because of one of the following:



- a. Conditions in the immediate vicinity have so markedly changed since the property was given its present zoning and that under those changed conditions a rezone is within the public interest; or
- b. The rezone will correct a zone classification or zone boundary that was inappropriate when established.

D. *Time Period for Final Decision.* The provisions for issuing a notice of final decision on any rezone application filed pursuant to this chapter are set forth in LMC [18A.30.690](#). [Ord. 726 § 2 (Exh. B), 2019.]

**18A.30.695.60 Burden of proof.**

The applicant has the burden of proving that the rezone meets the criteria of LMC [18A.30.695.50](#). [Ord. 726 § 2 (Exh. B), 2019.]

**Commented [BG60]:** Is this not true for all of our applications? Should this be removed and added to 18A20 as a procedural expectation for all reviews?

**18A.30.695.70 Hearing Examiner’s authority.**

A. *Approval.* The Examiner may approve an application for a rezone, approve with additional requirements above those specified in this title, or require modification of the proposal to comply with specified requirements or local conditions.

B. *Denial.* The Examiner shall have the authority to deny a rezone application when, in the opinion of the Examiner, the criteria established have not been met.

C. *Expiration Dates.* The Examiner has the authority, as part of the approval of the rezone, to establish expiration dates or time periods within which the approval must be exercised. Upon expiration, the approval shall be considered null and void. The expiration time period above may be extended by the Examiner provided such request has been made prior to the expiration date, in the following situations:

- 1. If the applicant can demonstrate to the Examiner that there have been unusual circumstances beyond their control to cause delay in the project, the time period may be extended by one (1) year; or
- 2. The Examiner has the authority to grant a single one (1) year time period extension. [Ord. 726 § 2 (Exh. B), 2019.]

**Commented [BG61]:** Is this section meant to be about a different entity than the Hearing Examiner? If it is meant to be the same, I recommend updating the section to match the rest of code.

**18A.30.695.80 Appeals.**

Procedures for appeal of a Hearing Examiner decision on a rezone issued pursuant to this title are set forth in Chapter [18A.20](#) LMC, Article IV. [Ord. 726 § 2 (Exh. B), 2019.]

**18A.30.695.90 Compliance with conditions.**

Compliance with conditions established in a rezone is required. Any departure from the conditions of approval or approved plans constitutes a violation of this title and shall be subject to enforcement actions and penalties (see LMC [18A.20.105](#)). [Ord. 726 § 2 (Exh. B), 2019.]

**Article VIII. Temporary Use Permits**

**18A.30.700 Purpose.**

The provisions of this article are designed to provide standards and criteria for temporary relief to situations resulting from strict application of this title. Provisions authorizing temporary uses are intended to permit occasional temporary uses, activities and structures when consistent



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with the purpose of this title and when compatible with the general vicinity and adjacent uses.  
[Ord. 726 § 2 (Exh. B), 2019.]

### **18A.30.710 Permitted uses.**

The following types of temporary uses, activities and associated structures may be authorized, subject to specific limitations in this section and such additional conditions as may be established by the Director:

- A. Circuses, carnivals, rodeos, fairs or similar transient amusement or recreational activities.
- B. Christmas tree sales lots, flower stands, and similar seasonal sales facilities limited to location on nonresidential lots in commercial or industrial zoning districts. Specific facilities that are reestablished on the same site and at the same intensity every year may be reauthorized as a minor amendment to the original permit.
- C. Mobile home residences used for occupancy by supervisory and security personnel on the site of an active construction project.
- D. Temporary use of mobile trailer units or similar portable structures for nonresidential purposes, located in districts where the intended use is permitted.
- E. Seasonal retail sales of agricultural or horticultural products raised or produced off the premises, permitted in commercial or industrial zoning districts only.
- F. Neighborhood or community garage or rummage sales, block parties, parades or holiday celebrations, and other similar neighborhood or community activities. The Director may exempt certain fund-raising or other activities by nonprofit organizations from the permit requirements of this section where it is determined that the proposed activity is not likely to have adverse impacts on surrounding land uses or the community in general.
- G. The Director may authorize additional temporary uses not listed in this subsection when it is found that the proposed uses are in compliance with the requirements and findings of this section. [Ord. 726 § 2 (Exh. B), 2019.]

### **18A.30.720 Exemptions.**

The following temporary uses, activities and structures may be exempted from the requirement to obtain a temporary use permit upon the determination by the Director that the use, activity or structure is expected and/or normal or customary for the facility or property where it is occurring, and that the expected impacts of the use, activity or structure have been anticipated or are regulated directly by other sections of this code:

- A. Model homes or apartments and related real estate sales and display activities located within a subdivision or residential development to which they pertain.
- B. Indoor or outdoor art and craft shows and exhibits, swap meets and flea markets, limited parking lot and sidewalk sales and displays, warehouse sales and similar activities limited to locations on properties in commercial or industrial districts, where such activities have been anticipated and/or are considered customary for the facility, and which do not result in significant impacts on adjacent public and private properties and are conducted by the business licensed for the property. Parking lot sales that displace or interfere with required off-street parking shall require a temporary use permit.



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C. Contractor's office, storage yard and equipment parking and servicing on or adjacent to the site of an active construction project; provided that the Director may require a temporary use permit or condition such facilities to resolve site-specific issues. This exemption does not include caretaker quarters or other residential uses or dwellings, which are otherwise regulated.

D. The Director may authorize automatic or abbreviated renewal provisions for any temporary use permit. Such provisions shall be specified in the terms of the original permit. [Ord. 726 § 2 (Exh. B), 2019.]

### **18A.30.730 Application and authorization.**

A. A temporary use permit shall be considered in accordance with the procedures for such permits as set forth in Chapter [18A.20](#) LMC, Administration.

B. Temporary use applications shall be on a form prescribed by the Planning and Public Works Department and shall include all of the information and materials required by the application form. An applicant shall provide sufficient facts and evidence to enable the Director to make a decision. The established fee shall be submitted at time of application.

C. Applications for temporary use permits shall be filed with the Department. Application shall be made at least fifteen (15) days prior to the requested date for commencement of the temporary use.

D. A temporary use authorized pursuant to this section shall be subject to all of the applicable standards of LMC [18A.30.740](#), Standards, and shall not be exempted or relieved from compliance with any other ordinance, law, permit or license applicable to such use, except where specifically noted. [Ord. 726 § 2 (Exh. B), 2019.]

### **18A.30.740 Standards.**

A. Each site occupied by a temporary use shall be left free of debris, litter or other evidence of temporary use upon completion or removal of the use.

B. A temporary use conducted in a parking facility shall not occupy or remove from availability more than twenty (20) percent of the spaces required for the permanent use.

C. Each site occupied by a temporary use must provide or have available sufficient off-street parking and vehicular maneuvering area for customers. Such parking must provide safe and efficient interior circulation and ingress and egress from the public right-of-way.

D. No temporary use shall occupy or use public rights-of-way, parks or other public lands in any manner unless specifically approved by the City Council.

E. No temporary use shall occupy a site or operate within the City for more than forty-five days (45) days within any calendar year, except as follows:

1. When authorized by the Director, a temporary use may operate an additional forty-five (45) days if it is found that such an extension will be consistent with the requirements of LMC [18A.30.700](#), Purpose, LMC [18A.30.710](#), Permitted uses, and this section.

2. A temporary use may be provided an additional extension if unique circumstances exist that necessitate a longer use such as construction office or security housing for an active construction site and such an extension will be consistent with the requirements of LMC [18A.30.700](#), Purpose, LMC [18A.30.710](#), Permitted uses, and this section.



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- F. All signs shall comply with the requirements of Chapter [18A.100](#) LMC, Signs, except as otherwise specified in this section.
- G. All temporary uses shall obtain all required City permits, licenses or other approvals, prior to occupancy of the site.
- H. The Director may establish such additional conditions as may be deemed necessary to ensure land use compatibility and to minimize potential impacts on nearby uses. These include, but are not limited to, time and frequency of operation, setbacks, special yards, and spaces; control of points of vehicular ingress and egress, temporary arrangements for parking, loading and traffic circulation, requirements for screening or enclosure, site maintenance during use, and guarantees for site restoration and cleanup following temporary use.
- I. Subsequent temporary use permits may be denied to an applicant, event or organization based on failure to comply with the terms of an approved temporary use permit or applicable regulations. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.30.750 Criteria for granting approval.**

A temporary use permit shall only be granted when the Director, after consultation and coordination with all other applicable City departments and other agencies, has determined that:

- A. The temporary use will be compatible with uses in the general vicinity and on adjacent properties.
- B. The temporary use will not create a material adverse effect on the livability or appropriate development of abutting properties and the surrounding community.
- C. The temporary use will not impair the normal, safe and effective operation of a permanent use on the same site.
- D. The temporary use will comply with the requirements of the zone within which it is proposed.
- E. The temporary use shall comply with all applicable standards of the Tacoma-Pierce County Health Department, if applicable.
- F. In applying temporary use criteria and determination of appropriate conditions, consideration shall be given but not limited to:
1. The harmony and scale, bulk, coverage, and density;
  2. The availability of public facilities and utilities;
  3. The harmful effect, if any, upon a desirable neighborhood character;
  4. The generation of traffic and the capacity of surrounding streets and roads;
  5. The creation of noise, vibration, odors, or other similar nuisances; and
  6. Any other relevant impact on the peace, quiet, comfort, and enjoyment by and of the abutting properties and the surrounding community. [Ord. 726 § 2 (Exh. B), 2019.]

#### **18A.30.760 Decision.**

The Director shall provide the applicant with a written decision, either approving, denying or approving the application with modifications and/or conditions of approval. [Ord. 726 § 2 (Exh. B), 2019.]



## Article IX. (Reserved)

### Article X. Variance

#### 18A.30.840 Purpose.

The intent of this section is to provide an avenue of relief where, by reason of exceptional configuration, or by reason of other unique and extraordinary situations or conditions existing on a piece of property, the strict application of development regulations enacted under this title would result in peculiar, exceptional and undue hardship upon the owner of such property, which was not the result of actions of the applicant, property owner or a previous property owner or agent. Any variance request shall follow the procedures identified in LMC Chapter 18A.20 and other applicable LMC standards for approval. [Ord. 726 § 2 (Exh. B), 2019.]

#### 18A.30.850 Process type of action.

A variance shall be considered in accordance with the procedures for such permits as set forth in Chapter [18A.20](#) LMC, Administration. [Ord. 726 § 2 (Exh. B), 2019.]

#### 18A.30.860 Limitations.

A variance shall not relieve an applicant from any of the procedural provisions of LMC Chapter 18A.20 and applicable development regulations and conditions of approval established during prior permit review. The variance process shall not allow the establishment of a use that is not otherwise permitted in the zoning district in which the proposal is located or allow development that would result in an increase in density or a reduction in the minimum lot size. [Ord. 726 § 2 (Exh. B), 2019.]

#### 18A.30.870 Required findings.

- A. Before any variance is granted, the approval authority as established in LMC 18A.20.080 shall find that the following circumstances exist:
1. That the proposed variance will not amount to a rezone or constitute a change in the district boundaries shown on the official zoning map;
  2. That because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property the variance is necessary to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located;
  3. That the special conditions and circumstances do not result from the actions of the applicant;
  4. That granting of the variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property is located;
  5. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which subject property is situated; and



6. That the variance is the minimum variance necessary to provide the rights and privileges described above. [Ord. 726 § 2 (Exh. B), 2019.]

**18A.30.880 Additional conditions of approval.**

Before granting a variance, the appropriate approval authority as established in LMC 18A.20 may prescribe appropriate conditions and safeguards that will ensure that the purpose and intent of this title shall not be violated. Noncompliance with the conditions of the permit shall be grounds for rehearing before the Hearing Examiner, in addition to fines and penalties under Chapter 1.44 LMC, General Penalties. The Hearing Examiner may suspend or revoke a variance pursuant to this section for violation of any of the provisions of this title or original conditions of approval. [Ord. 726 § 2 (Exh. B), 2019.]

**Commented [AS62]:** Reflect department given new 18A.20 variance approval structure

**Commented [AS63]:** Need to discuss this further. Based on 18A. 20.080 revisions, the department would be able to approve variances based on less than 25% deviation. If that is the way we want to go, is the HEX still the appropriate body to consider non-compliance or would it be the director?

**Article XI. Unusual Uses**

**18A.30.890 Purpose.**

Certain unusual uses which are not identified in and not similar to another use or accessory use identified in this title may be allowed by the Hearing Examiner if such use will have no detrimental effect on other properties in the vicinity. In authorizing uses of this type, the Hearing Examiner shall impose limits and conditions necessary to safeguard the health, safety and general welfare of those persons that might be affected by the use. [Ord. 794 § 2 (Exh. A), 2023; Ord. 726 § 2 (Exh. B), 2019.]

**Commented [BG64R63]:** Same comment as above for CUP noncompliance

**18A.30.900 Process type of action.**

An unusual use shall be considered in accordance with the procedures for such permits as set forth in Chapter 18A.20 LMC, Administration. [Ord. 726 § 2 (Exh. B), 2019.]