

ORDINANCE NO. 24-1303

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST PARK, WASHINGTON, AMENDING CHAPTER 16.26 OF THE LAKE FOREST PARK MUNICIPAL CODE IN ACCORDANCE WITH AMENDMENTS TO STATE LAW ADOPTED IN SENATE BILL 5290 AND EFFECTIVE ON JANUARY 1, 2025, PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the adoption of land use and zoning regulations is a valid exercise of the City's police power and is specifically authorized by RCW 35A.63.100; and

WHEREAS, local project review processes are governed by Chapter 36.70B RCW; and

WHEREAS, Senate Bill (SB) 5290 concerning consolidating local permit review processes was passed into law during the 2023-2024 legislative session, which amends Chapter 36.70B RCW to set new requirements for the processing of project permit applications; and

WHEREAS, SB 5290 Section 7, codified in RCW 36.70B.080, relating to maximum permit review times is effective on January 1, 2025; and

WHEREAS, the City must amend portions of Chapter 16.26 of the Lake Forest Park Municipal Code (LFPMC) to comply with RCW 36.70B.080; and

WHEREAS, RCW 36.70B.080, provides for partial refunds (10 to 20 percent) of permit fees collected if the deadlines for permit review are not met; except refunds are not required if a city has adopted at least three (3) of the mitigating measures listed in RCW 36.70B.160.

WHEREAS, consistent with RCW 36.70B.160, the City's current permit processing procedures include the following to provide prompt, coordinated review and ensure accountability to applicants and the public:

1. Impose reasonable fees to cover the cost to the city, of processing applications, inspecting and reviewing plans, or preparing detailed statements required by the State Environmental Policy Act RCW (RCW 36.70B.160(1)(b));
2. Maintain and budget for on-call permitting assistance for when permit volumes or staffing levels change rapidly (RCW 36.70B.160(1)(d));

3. Include development regulations that make preapplication meetings optional rather than a requirement of permit application submittal (RCW 36.70B.160(1)(g)); and
4. Include development regulations that make housing types an outright permitted use in all zones where the housing type is permitted (RCW 36.70B.160(1)(h)).

WHEREAS, with the above procedures in place, RCW 36.70B.080 does not require the City to refund any portion of an applicant's permit fee when the time period for processing the permit is not met; therefore, the City is not adopting refund provisions in these amendments to Chapter 16.26 LFPMC; and

WHEREAS, the adoption of these amendments to the City's review process is exempt from review under the State Environmental Policy Act, Chapter 43.21C RCW, pursuant to WAC 197-11-800(19); and

WHEREAS, in accordance with the requirements set forth in RCW 36.70A.106, the City provided the Washington State Department of Commerce notice of the City's intent to adopt the proposed amendments on October 18, 2024, and received notice that the Department had granted expedited review on November 4, 2024 and that no comments were being provided on the proposed amendments to Chapter 16.26 LFPMC; and

WHEREAS, the City Council held a public hearing regarding the proposed amendments on November 7, 2024; and

WHEREAS, the City Council considered this Ordinance during its City Council meetings of November 7, 2024, December 2, 2024, and December 12, 2024.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE FOREST PARK, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. FINDINGS ADOPTED. The "Whereas Clauses" set forth in the recitals of this Ordinance are hereby adopted as the findings and conclusions of the City Council for adopting this Ordinance.

Section 2. AMEND. LFPMC Section 16.26.020, Definitions, is hereby amended as shown in Exhibit A attached and incorporated by this reference.

Section 3. AMEND. LFPMC Section 16.26.040, Applications, is hereby amended as shown in Exhibit A attached and incorporated by this reference.

Section 4. REPORT AND POSTING. Staff is encouraged to collect, as practically feasible given the City's size and staffing levels, the annual reporting information required of larger cities and counties in RCW 36.70B.080(2).

Section 5. SEVERABILITY. If any section, sentence, clause, or phrase of this Ordinance or any municipal code section amended hereby should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance or the amended municipal code section.

Section 6. CORRECTIONS. The City Clerk is authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 7. EFFECTIVE DATE. This ordinance shall take effect five (5) days after passage and publication.

APPROVED BY A MAJORITY VOTE of the members of the Lake Forest Park City Council this 12th day of December, 2024.

APPROVED:

Thomas French
Thomas French (Dec 16, 2024 13:13 PST)

Thomas French
Mayor

ATTEST/AUTHENTICATED:

Matt McLean

Matthew McLean
City Clerk

APPROVED AS TO FORM:

Kim A. Pratt

Kim Adams Pratt
City Attorney

Introduced: November 7, 2024

Adopted: December 12, 2024

Posted: December 18, 2024

Published: December 18, 2024

Effective: December 24, 2024

Exhibit A

16.26.020 Definitions.

H. “Project permit” or “project permit application” means any land use or environmental permit or license required from the City for a project action, including but not limited to site development permits, fill and grade permits, subdivisions, binding site plans, planned unit developments, conditional uses, site plan(s), shoreline substantial development permits, development plan review, site specific rezones which do not require a comprehensive plan amendment; but excluding adoption or amendment of a comprehensive plan, subarea plan or development regulations except as otherwise specifically included in this subsection.

16.26.040 Project Permit Applications.

A. Submittal Requirements.

1. Applications shall be submitted on forms provided by the city. The code administrator shall specify submittal requirements, including type, detail, and number of copies for an application to be complete. Unless a project is determined to be categorically exempt, an environmental checklist shall be included in the application.
2. The code administrator may waive specific submittal requirements determined to be unnecessary for review of an application. The code administrator may require additional material such as maps, studies, or models when the code administrator determines such material is needed to adequately assess the proposed project. The code administrator may participate in preapplication meetings.

B. Determination of Completeness Notice of Complete Application.

1. For the purposes of this Chapter, a complete application is one that contains all required information, supporting documentation, and signatures as outlined on the project permit application, and which is accompanied by payment of any and all fees as required by the community development department. Additional information or studies may be required or project modifications may be undertaken subsequent to the procedural review of the application by the City. The determination of completeness does not preclude the City from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information is required or substantial changes in the proposed action occur.

24. Within 28 calendar days after receiving an project permit application, the code administrator shall notify the applicant in writing, stating either: (a) that whether the application is complete; or (b) that the application is not complete and that the City's procedural submission requirements have not been met. The determination

~~will outline, if not, what is required to make the application procedurally complete; otherwise, the application shall be deemed complete as of the end of the twenty-eighth day.~~

3. An application will be deemed procedurally complete on the 29th day after receiving a project permit application if the City does not provide a written determination of completeness. When the City does not provide a written determination, the City may still seek additional information or studies as provided for in subsection (B)(1) of this section.

42. If additional information is requested, then within 14 calendar days after such information has been submitted, the code administrator shall notify the applicant as provided in LPMC 16.26.040(B)(2) or the application shall be deemed complete.

3. A land use application is complete when it meets the submittal requirements established by the code administrator and it is sufficient for continued processing. A determination that an application is complete shall not preclude the code administrator from requesting additional information or studies at any time to facilitate complete review of the application or if substantial changes in the permit application are proposed.

C. Environmental Compliance.

1. If possible, the code administrator shall issue a threshold determination or a decision that the project is categorically exempt before publication of the notice of application, but in no event later than 90 calendar days from the notice of complete application. Notice of any threshold determination shall be published in conjunction with the notice of application.

2. The code administrator may use the optional DNS procedure authorized by WAC 197-11-355 and include in the notice of application that this optional process will be used; that a determination of nonsignificance is likely; and that the comment period applicable to the notice of application will be the only opportunity to comment upon environmental issues.

D. Notice of Application.

1. The code administrator shall provide notice of application within 14 calendar days ~~of issuance of the notice of complete application after the determination of completeness as provided in subsection (B)~~ by:

a. Publication in a newspaper of general circulation in the city of a notice containing the date of the application, the date of the notice of complete application, the date of any public hearing, describing the project, its location, ~~other city type of~~ permits ~~or approvals sought or~~ required,

comment period dates, and providing the address where the complete application file may be reviewed;

b. Mailing to agencies with jurisdiction, owners of real property within 300 feet of the project site, each person or organization which has requested such notice for the calendar year and paid any applicable fee as established by the council, and to the chairs of the planning commission and the environmental quality commission, a notice which includes:

- i. The date of the application and of the notice of complete application;,
- ii. The project description and location;,
- iii. City permits or approvals sought;,
- iv. The date of any public hearing, if scheduled at the date of the notice of application; and
- v. Where the application and any studies can be reviewed;
- vi. The public comment period;
- vi. Statements regarding the right to receive notice of and participate in any hearing, request a copy of the decision once made, and any appeal rights; and
- viii. The code administrator may include other information to the extent known at the time of notice of application, such as any decision under the State Environmental Policy Act, related permits required by other agencies or jurisdictions, identification of studies requested for application review, existing environmental documents applicable to the project, and a statement of the preliminary determination, if one has been made, of those development regulations that will be used for project mitigation.,

and

c. Posting one sign immediately adjacent to each street frontage on or immediately adjacent to the site for any site specific application. The code administrator shall establish standards for size, color, layout, design, and wording of the signs and approve the location of the signs; provided, that no sign shall be posted higher than six feet from ground level;

2. The notice of application must be provided at least 15 days prior to an open record hearing.

3. A notice of application is not required for projects for which public comment or hearing are not required and that are categorically exempt under the State Environmental Protection Act.

E. Minimum Comment Period.

1. The notice of application shall be subject to a minimum comment period of 14 calendar days from the date of publication. The code administrator's recommendation or decision will not be issued prior to the expiration of the comment period.
2. The code administrator may accept and respond to public comments at any time prior to the closing of the public hearing record.
3. A single comment letter may be submitted to the code administrator addressing environmental impacts and other issues subject to review for those projects requiring review under the State Environmental Policy Act.

F. Project Time Limits.

1. The ~~code administrator shall establish reasonable and predictable times for review of applications and decisions thereon not to exceed 120 days, except as provided in RCW 36.70B.090 (2)~~ time periods for City action for each type of complete project permit application will not exceed the time periods specified in this section.
2. For purposes of counting days of permit processing, the applicable time period ~~shall will be calculated from the day completeness is determined under subsection (B) of this section to the date a final decision is issued on the project permit application. The number of days will be calculated by counting every calendar day and excluding the following time periods begin on the first working day following the date the application is determined to be complete and shall exclude the following:~~
 - a. Any period ~~between the day that the city has notified the applicant, in writing, that additional information is required to further process the application and the day when responsive information is resubmitted by the applicant; during which the applicant is correcting plans, conducting studies, or providing additional information at the request or direction of the city and up to 14 days after the information has been provided, unless the city has earlier notified the applicant the information is complete.~~
 - b. Any period ~~after an applicant informs the city, in writing, that they would like to temporarily suspend review of the project permit application until the time that the applicant notifies the city, in writing, that they would like to resume the application. The city may set conditions for the temporary suspension of a permit application; and required to complete an EIS;~~

~~provided, that the applicant and the city agree upon such time or that the city has adopted a resolution specifying such time;~~

- c. Any period after~~for an~~ administrative appeals is filed until the administrative appeal is resolved and any additional time period provided by the administrative appeal has expired; and
- d. Any period excluded by agreement of the city and the applicant.

3. The time periods for city action to issue a final decision for each type of complete project permit application or project type subject to this chapter should not exceed the following time periods:

- (a) For project permits which do not require public notice under subsection (D) of this section, the city will issue a final decision within 65 days of the determination of completeness under subsection (B) of this section;
- (b) For project permits which require public notice under subsection (D) of this section, the city will issue a final decision within 100 days of the determination of completeness under subsection (B) of this section; and
- (c) For project permits which require public notice under subsection (D) of this section and a public hearing, the city will issue a final decision within 170 days of the determination of completeness under subsection (B) of this section.

4. The time periods for the city to process a permit will 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 procedural completeness for the new use; as required under subsection (B) of this section.

5. If, at any time, an applicant informs the city, in writing, that the applicant would like to temporarily suspend the review of the project for more than 60 days, or if an applicant is not responsive for more than 60 consecutive days after the city has notified the applicant, in writing, that additional information is required to further process the application, an additional 30 days may be added to the time periods for city action to issue a final decision for each type of project permit that is subject to this chapter. Any written notice from the city to the applicant that additional information is required to further process the application must include a notice that nonresponsiveness for 60 consecutive days may result in 30 days being added to the time for review. For the purposes of this subsection, "nonresponsiveness" means that an applicant is not making demonstrable progress on providing additional requested information to the city, or that there is no ongoing communication from the applicant to the city on the applicant's ability or willingness to provide the additional information.

6. Nothing in this subsection F prohibits the city from extending a deadline for issuing a decision for a specific project permit application for any reasonable period of time mutually agreed upon by the city and the applicant.