

ORDINANCE NO. 1218

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST PARK, WASHINGTON, CREATING CHAPTER 18.72 LFPMC, DEVELOPMENT AGREEMENTS; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE

WHEREAS, RCW 36.70B.170 through .210 and WAC 365-196-845 provide authority for cities to enter into development agreements; and

WHEREAS, the purpose of development agreements is to allow a city and property owner/developer to enter into voluntary agreements regarding the applicable regulations, standards, and mitigation that apply to a specific development project after the development agreement is executed; and

WHEREAS, in accordance with RCW 36.70A.106 and WAC 365-196-630, a notice of intent to adopt the proposed new regulations was sent to the State of Washington Department of Commerce and to other state agencies to allow for a 60-day review and comment period, which comment period ended prior to adoption of this ordinance; and

WHEREAS, the City Council held public meetings to review and analyze development regulations and included processes and procedures for adopting development agreements during regular meetings, study sessions, and Committee of the Whole meetings on December 10 and 14, 2020; January 7, 9, 11, 14, and 25, 2021; and February 11, 16, 22 and 25, 2021; and

WHEREAS, the City Council held public hearings on January 21, 2021, and February 25, 2021 regarding development regulations and included processes and procedures for adopting development agreements; and

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

Section 1. ADOPT . The City Council of the City of Lake Forest Park hereby adopts Chapter 18.72 LFPMC, Development Agreements, as follows:

Chapter 18.72

Development Agreements

18.72.010 Authorized.

A. The city may enter into a development agreement with a person having ownership or control of real property within its jurisdiction. The city may enter into a development agreement for real property outside its boundaries as part of a proposed annexation or a service agreement. A development agreement must set forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement.

B. Pursuant to RCW 36.70B.170 through 36.70B.210, as amended, a person or entity having ownership or control of real property within the city may file an application for a development agreement with the Planning and Building Department ("Department"), and pay the filing fee established by city council resolution.

18.72.020 Terms and Conditions.

A. The Director of the Planning Department ("Director"), and such designee as may be appointed for this purpose by the Mayor, is authorized, but not required, to negotiate acceptable terms and conditions of the proposed development agreement with due regard for the following criteria:

1. The development agreement conforms to the existing comprehensive plan policies.
2. The terms of the development agreement are generally consistent with the development regulations of the city then in effect.
3. Appropriate elements such as permitted uses, residential densities, and nonresidential densities and intensities or structure sizes are adequately provided.
4. Appropriate provisions are made for the amount and payment of fees agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications.
5. Adequate mitigation measures, development conditions, and mitigation requirements under Chapter 43.21C RCW are provided, including monitoring and adjustment of measures and conditions to ensure mitigation is effective.
6. Adequate and appropriate design standards and other development features are provided.
7. If applicable, targets and requirements regarding affordable housing are addressed.

8. Provisions are sufficient to assure requirements of parks and preservation of open space.
9. Interim uses and phasing of development and construction are appropriately provided. The agreement shall clearly state the conditions under which an interim use shall be converted to a permanent use within a stated time period and the penalties for noncompliance if the interim use is not converted to the permanent use in the stated period of time.
10. Where a phased development agreement is proposed, a site plan shall be provided and shall clearly show the proposed phases and when in each phase public benefit shall be provided. Public benefits shall be provided as early as feasible in projects.
11. Clearly document that any departures from the standards of the code that are requested by the applicant are, in the judgment of the city, offset by providing a benefit to the city of equal or greater value relative to the departure requested. In no case shall a departure from the code be granted if no benefit to the city is proposed in turn by the applicant.
12. Provisions for maintenance and operations, including landscape maintenance.
13. A build-out or vesting period for applicable standards is provided.
14. Provisions for resolving disputes, review procedures, and standards for implementing decisions.

18.72.030 Public hearing, recommendation, decision.

A. When the Director determines that a development agreement addressing the criteria in this chapter has been negotiated and recommends the same for consideration, a public hearing pursuant to RCW 36.70B.200 shall be held by the planning commission.

1. At the public hearing, the applicant shall have an opportunity to make a presentation, city representatives shall have an opportunity to make a presentation, and members of the public shall be allowed to comment. This hearing may be continued for the purposes of clarifying issues, or obtaining additional information, facts, or documentary evidence.
2. At the applicant's expense, notice of the public hearing shall be provided at least 21 days prior to the public hearing as follows:
 - a. Emailed or sent regular United States Parcel Service (USPS) mail to the applicant and members of the public who have submitted written comments;

b. Sent regular USPS mail to all dwelling units in the city and to all taxpayers of record if different than the dwelling unit address;

c. Published in the city's website on its News Flash page, as amended or replaced by other similar electronic notification methods; and

d. Posted on a social media account hosted by the city.

3. The planning commission may continue the hearing for the purpose of clarifying issues, or obtaining additional information, facts, or documentary evidence. After deliberation, the planning commission shall make a recommendation on the development agreement to the city council.

B. The development agreement shall be subject to review and approval by the city council based on the record of the planning commission and on any subsequent public hearing the city council may hold. Any public hearing by the city council will be subject to the same notice provisions in A.2 above. If a public hearing is held, the city council may continue the hearing for the purpose of clarifying issues, or obtaining additional information, facts, or documentary evidence.

C. The decision of the city council shall be final immediately upon adoption of a resolution authorizing or rejecting the development agreement.

D. Following approval of a development agreement by the city council, and execution of the same, the development agreement shall be recorded with the King County recorder, at the applicant's expense.

E. Because a development agreement is not necessary to any given project or use of real property under the existing comprehensive plan and development regulations in effect at the time of making application, approval of a development agreement is wholly discretionary and any action taken by the city council is legislative only, and not quasi-judicial.

F. During the term of an approved development agreement, the agreement is binding on the parties and their successors, and any permit or approval issued by the city after execution of the development agreement must be consistent with the development agreement.

G. Pursuant to RCW 36.70B.020, development agreements are not land use applications and are not subject to processing deadlines in Chapter 16.26 LFPMC.

18.72.040 Amendments to development agreements.

A. The city will process and decide upon an application for an amendment to an existing development agreement as if it were an application for a new development agreement

in the manner set forth above, unless it is deemed a minor modification as set forth in subsection B. of this section.

B. The Director may approve minor modifications to an existing development agreement. Criteria for approving minor modifications include but are not limited to the following:

1. Shall conform to the intent of the development agreement;
2. Shall not reduce landscaping, buffering, or open space areas;
3. Shall not reduce setback requirements;
4. Shall not result in an increase in height of any structure; and
5. Shall not result in a change in ingress or egress.

18.72.050 Consistency and flexibility.

A development agreement shall be consistent with applicable development regulations; provided, a development agreement may allow development standards different from those otherwise imposed under the Lake Forest Park Municipal Code in order to provide flexibility to achieve public benefits, respond to changing community needs, or encourage modifications that provide the functional equivalent or adequately achieve the purposes of otherwise applicable city standards. Any development standards approved pursuant to a development agreement that differ from those in the LFPMC shall not require any further zoning reclassification, variance from city standards or other city approval apart from development agreement approval. The development standards as approved through a development agreement shall apply to and govern the development and implementation of each covered site in lieu of any conflicting or different standards or requirements elsewhere in the LFPMC. Subsequently adopted standards that differ from those of a development agreement adopted by the city as provided in this chapter shall apply to the covered development project only where necessary to address imminent public health and safety hazards or where the development agreement specifies a time period or phase after which certain identified standards can be modified. Determination of the appropriate standards for future phases which are not fully defined during the initial approval process may be postponed. Building permit applications shall be subject to the building codes in effect when the permit is applied for.

18.72.060 Exercise of city police power and contract authority.

As provided in RCW 36.70B.170(4), the execution of a development agreement is a proper exercise of the city's police power and contract authority. Accordingly, a development agreement may obligate a party to fund or provide services, infrastructure, or other facilities. A development agreement shall reserve authority to impose new or

different regulations to the extent required by a serious threat to public health and safety.

18.72.070 Form.

Development agreements shall be consistent with RCW 36.70B.170 through 36.70B.210

Section 2. SEVERABILITY. Should any portion of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 3. 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 4. EFFECTIVE DATE. This ordinance shall take effect five (5) days after passage and publication.


APPROVED BY A MAJORITY of the Lake Forest Park City Council this 25th day of February, 2021.

APPROVED:



Jeff Johnson
Mayor

ATTEST/AUTHENTICATED:



Evelyn Jahed
City Clerk

APPROVED AS TO FORM:



Kim Adams Pratt
City Attorney

Introduced: January 21, 2021
Adopted: February 25, 2021
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