

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST PARK, WASHINGTON, CREATING CHAPTER 12.50 OF THE LAKE FOREST PARK MUNICIPAL CODE (LFPMC), RETAINING WALLS; AND AMENDING CHAPTER 16.26 LFPMC REGARDING TYPE III PERMITS; PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

**WHEREAS**, large scale retaining walls in or adjacent to publicly owned rights-of-way become de facto landmarks identifying the City of Lake Forest Park (the "City"); and

**WHEREAS**, it is imperative that such significant, recognizable features integrate with and support the community identity in the City; and

**WHEREAS**, chapter 12.50 of the Lake Forest Park Municipal Code ("LFPMC") would establish regulations for retaining walls in or adjacent to publicly owned right-of-way;

**WHEREAS**, an Environmental Checklist for a non-project action was prepared under the State Environmental Policy Act, Chapter 43.21C RCW, pursuant to Chapter 197-11 WAC, and a Determination of Non-Significance ("DNS") was issued on April 12, 2023; 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 April 6, 2023, and received notice that the Department had granted expedited review on April 20, 2023; and

**WHEREAS**, the City Council held public meetings to review the creation of Chapter 12.50 LFPMC during meetings on January 26, 2023; February 6, 2023, February 23, 2023, April 13, 2023, May 11, 2023, June 5, 2023, and \_\_\_\_\_; and

**WHEREAS**, the City Council held a public hearing on May 11, 2023, and \_\_\_\_, regarding the proposed ordinance.

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

Section 1. ADOPTION. The City Council of the City of Lake Forest Park hereby creates chapter 12.50 LFPMC, Retaining Walls, as follows:

**Commented [KA1]:** Highlighted items have been added or edited since Council's May 18 Special meeting.

**Commented [KA2]:** New section added since May 18 special meeting.

#### **12.50.010 Purpose and intent.**

The purpose and intent of this chapter is to:

- A. Recognize that while at the basic level, a retaining wall is a structure that holds or retains soil behind it, retaining walls can also be used to create topographic interest and be aesthetically pleasing;
- B. Recognize that retaining walls can be built from different materials to achieve the strength required and achieve aesthetic goals;
- C. Require aesthetic design features that reflect the character of the community as adopted in Retaining Wall Design Standards;
- D. Recognize that retaining walls are frequently adjacent to noise sensitive areas such as residential dwelling units and other land uses that are noise sensitive and subject to inequitable noise impacts;
- E. Require proof of compliance with state regulations for noise attenuation, absorption, and transmission. Recognize that compliance may be achieved through a variety of techniques and materials such as the use of tilted retaining walls to direct noise upward, large and small variations of façade to break up deep to high frequencies, and sound reflection evaluation;
- F. Require landscaping to avoid visual dominance of the retaining wall, potentially discourage graffiti, and add visual quality;
- G. Encourage building material choices that consider aesthetics, durability, maintenance, and cost;
- H. Promote cooperation between the State of Washington Department of Transportation ("WSDOT"), the City, and the project proponent; and

#### **LFPMC 12.50.020 Retaining wall construction and design.**

- A.** Public benefit. Retaining walls located within the right-of-way shall be installed to benefit the general public by supporting or protecting public transportation infrastructure and shall not be for private development gain.
- B.** Application type. An application for retaining wall construction and design approval shall be processed pursuant to the requirements in chapter 16.26 LFPMC for a Type III permit, administrative decision made by the code administrator. The Public Works director shall be the "code administrator" for the Type III permit decision.
- C.** Transportation design manuals and regulations. Retaining walls located on private property or right-of-way that support or protect public transportation infrastructure shall, at a minimum, meet the requirements set forth in the latest edition of the Washington

**Commented [KA3]:** Headings have been added to A - D to provide ease of reference.

**Commented [KA4]:** For Type III under 16.26.040(D) Notice of Application is published, mailed within 300 feet, and posted on street frontage. 16.26.040(E) 14 day comment period. 16.26.180 final decision by code administration is to ensure consistency with city regulations. 16.26.190 appeal of code administrator decision to Hearing Examiner in open record appeal hearing.

**Commented [KA5]:** The previous draft of C. included structural design and aesthetics design. These have been separated in C. and D. Items C.1 - C. 6 have been reordered since previous draft.

State Department of Transportation (WSDOT) Design Manual, Bridge Design Manual, and the International Building Code. These manuals and codes provide policies, procedures, and methods for developing and documenting design improvements to the transportation network.

1. The retaining wall construction type shall be the same from the highest to the lowest portion of each independent wall segment. Where walls are terraced or tiered, all tiers/terraces shall consist of the same wall construction type for the length of each independent segment.

2. Concrete retaining walls shall be coated with a moisture barrier and anti-graffiti paint.

3. Total structural isolation is required for public and private retaining walls adjacent to each other.

**Commented [KA6]:** This was previously in D.

4. The Public Works director may take into account long term maintenance requirements, constructability, and recommendations on same from the applicant's engineers for third-party engineers.

5. Easements may be required for the maintenance, operation, and replacement of the wall.

6. The applicant shall provide documentation of how the retaining wall design satisfies applicable WSDOT traffic noise policy and procedures.

**Commented [KA7]:** This was previously in E.

**Commented [KAP8]:** Alternative language: The applicant shall provide documentation of how the retaining wall design satisfies applicable WSDOT traffic noise policy and procedures through reflection and absorption techniques like the use of tilted retaining walls to direct noise upward, large and small variations in the façade to break up deep to high frequencies, and a sound reflection evaluation by an independent testing agency.

7. The Public Works Director shall require a third-party structural review prior to issuing a decision on the retaining wall.

#### D. Aesthetic design.

1. An architectural finish or engineered block shall be used that integrates with and supports the community identity of the City showing a strong relationship to the surrounding natural environment including native trees, flora, and fauna of the region. The architectural finishes included in Provision 1 of the Retaining Wall Design Standards dated June \_\_\_\_, 2023, are examples that satisfy this requirement. The Public Works Director will review and issue a decision on the architectural finish and engineered block consistent with this section after obtaining review by a third-party qualified professional.

2. Landscaping treatments shall be used on retaining walls that reduce the harshness of these walls. The landscaping standards included in Provision 2 of the Retaining Wall Design Standards dated June \_\_\_\_, 2023, are examples that satisfy this requirement. The Public Works Director will review and issue a decision on landscaping treatments consistent with this section after obtaining review by a third-party qualified professional.

3. As a condition of permit approval, the Public Works Director shall require as needed, based on the impacts and circumstances related to a particular retaining wall, installation of a temporary irrigation systems, and the funding for or implementation of a 3-year tree and plant monitoring and maintenance plan, including the replacement of failed trees and plants.

**Commented [KA9]:** Reworded to include plants and trees in same maintenance plan since both now have a 3 year plan.

Section 2. AMENDMENT. The City Council of the City of Lake Forest Park hereby amends section LFPMC 16.26.010, as follows:

**16.26.010 Purpose and application.**

**Commented [KAP10]:** Added section since May 18 special meeting.

A. This chapter establishes standard procedures for land use and related decisions made by the city of Lake Forest Park. They provide for an integrated and consolidated permit review process to promote timely and informed public participation and to eliminate redundancy and thereby minimize delay and expense.

B. This chapter applies to all applications for land use and related decisions made under chapter 12.50 LFPMC, and ~~LFPMC~~ Titles 15, 16, 17 and 18 LFPMC.

Section 3. AMENDMENT. The City Council of the City of Lake Forest Park hereby amends section LFPMC 16.26.030, as follows:

**16.26.030 Classification of decisions.**

**Commented [KAP11]:** Added section since May 18 special meeting.

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C. Type III – Administrative Decisions Made by a Code Administrator.

1. Threshold determinations under the State Environmental Policy Act (SEPA);
2. Administrative variances;
3. Shoreline exemption permits;
4. Sensitive area permits issued pursuant to Chapter 16.16 LFPMC, with the exception of requests for exemption under LFPMC 16.16.250 and the exception of minor sensitive area permits as described under LFPMC 16.16.080(A)(2); ~~and~~
5. Short subdivisions; and
6. Retaining wall permits pursuant to chapter 12.50 LFPMC.

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Section 4. 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 5. 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 6. EFFECTIVE DATE. This ordinance shall take effect five (5) days after passage and publication.

**APPROVED BY A MAJORITY** the Lake Forest Park City Council this XXX day of XXX, 2023.

APPROVED:

\_\_\_\_\_  
Jeff Johnson  
Mayor

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Matthew McLean  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Kim Adams Pratt  
City Attorney

Introduced:  
Adopted:  
Posted:  
Published:  
Effective: