

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST PARK, WASHINGTON, AMENDING SECTION 16.16.250 OF THE LAKE FOREST PARK MUNICIPAL CODE, REASONABLE USE EXCEPTION TO ALLOW FOR REASONABLE ECONOMIC USE; PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, section 16.16.250 of the Lake Forest Park Municipal Code (LFPMC) provides a process by which an applicant may apply for a reasonable use exception from Chapter 16.16 LFPMC, Environmentally Critical Areas, when the application of regulations in the Chapter prevents all reasonable economic use of the property; and

WHEREAS, given the importance of critical areas in our community and recent experiences with a lack of compliance with orders granting reasonable use exceptions, the Lake Forest Park Planning Commission (Planning Commission) was tasked with reviewing the relevant provisions in the LFPMC; and

WHEREAS, the Planning Commission received input from the community and held public meetings to consider possible amendments to LFPMC 16.16.250 on July 12, August 17, and September 13 of 2022; and

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 _____, 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 _____, and received notice that the Department had granted expedited review on _____; and

WHEREAS, the City Council held public meetings to review amendments to LFPMC 16.16.250 on February 23, 2023, and _____; and

WHEREAS, the City Council held a public hearing on _____, 2023, regarding the proposed ordinance;

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

Section 1. AMENDMENT. The City Council of the City of Lake Forest Park hereby amends section 16.16.250 LFPMP, Reasonable use exception to allow for reasonable economic use, as follows:

A. If the application of this chapter will prevent any reasonable economic use of the owner's property, then the applicant may apply to the planning department for an exception from the requirements of this chapter and the application shall be processed pursuant to the provisions of Chapter 16.26 LFPMP.

B. The planning director shall forward the application, along with the record submitted to the city and the director's recommendation, to the hearing examiner for decision.

C. The hearing examiner shall grant an exception only if:

1. Application of the requirements of this chapter will deny all reasonable economic use of the property; and

2. There is no other reasonable economic use with less impact on the critical area; and

3. The proposed development does not pose an unreasonable threat to the public health, safety, or welfare, on or off the proposed site, and is consistent with the general purposes of this chapter and the comprehensive plan; and

4. Any alteration is the minimum necessary to allow for reasonable economic use of the property; and

5. The inability to derive reasonable use is not the result of an action or actions taken by the applicant or property owner.

D. The hearing examiner shall grant an exemption from the requirements of this chapter only to the minimum necessary extent to allow for reasonable economic use of the applicant's property.

E. The hearing examiner shall condition any exception from the requirements of this chapter upon conditions ~~recommended by the city~~ and upon compliance with any mitigation plan necessary to satisfy the criteria in this section.~~approved by the city.~~

F. For any in-water or wetland work it is the applicant's responsibility to obtain all state and federal approvals before beginning work.

G. All exceptions shall be conditioned on the property owner providing a financial security guarantee, in a form approved by the City, for the required critical area

mitigation performance and maintenance. The amount of the financial guarantee shall be subject to approval of the City and based on a qualified professional's cost estimate of the current market value of labor and materials for the approved mitigation and monitoring plan as well as a thirty percent contingency.

H. The hearing examiner's decision granting an exception and all other mitigation documents shall be recorded against the real property in question with the King County Recorder's Office.

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 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:

DRAFT