

ORDINANCE NO. 758

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON ADOPTING AMENDMENTS TO TITLES 5, 14, 15, AND 18A OF THE LAKEWOOD MUNICIPAL CODE (LMC).

FINDINGS

WHEREAS, the City of Lakewood is a code city planning under the Growth Management Act, codified in RCW 36.70A, and

WHEREAS, the City Council adopted its Comprehensive Plan via Ordinance No. 237 on July 10, 2000; and

WHEREAS, the Lakewood City Council adopted Title 18A, Land Use and Development Code, of the Lakewood Municipal Code (LMC) via Ordinance No. 264 on August 20, 2001; and

WHEREAS, the Growth Management Act (GMA) requires the City of Lakewood to adopt development regulations that are consistent with and implement the adopted Comprehensive Plan pursuant to Revised Code of Washington (RCW) 36.70A.040; and

WHEREAS, it is appropriate for a local government to adopt needed amendments to its development regulations to ensure that the Comprehensive Plan and implementing regulations provide appropriate policy and regulatory guidance for growth and development; and

WHEREAS, environmental review as required under the Washington State Environmental Policy Act (SEPA) has resulted in the issuance of a determination of environmental non-significance that was published on June 23, 2021 under SEPA #202103356; and

WHEREAS, notice was provided to state agencies on June 23, 2021 per City of Lakewood--2021-S-2816--Request for Expedited Review / Notice of Intent to Adopt Amendment, prior to

the adoption of this Resolution, and state agencies have been afforded the opportunity to comment per RCW 36.70A.106(1); and

WHEREAS, on May 20, 2020, acting as the City's designated planning agency, the Lakewood Planning Commission held a duly noticed public hearing on the proposed 2020 Annual Development Regulation Amendments to Lakewood Municipal Code Titles 5, 14, 15, and 18A; and

WHEREAS, on July 7, 2021, the Lakewood Planning Commission adopted Resolution 2021-03 recommending approval of the 2021 Annual Development Regulation Amendments to Lakewood Municipal Code Titles 5, 14, 15, and 18A to provide needed revisions, clarifications and updates; and

WHEREAS, on August 2, 2021 the Lakewood City Council held a duly noticed public hearing on the proposed 2021 Annual Development Regulation amendments; and

WHEREAS, on August 16, 2021, the City Council completed review;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Adoption of City Council Findings.

The Findings of the City Council are adopted as part of this Ordinance.

Section 2. Adoption of Annual Development Regulation Amendments.

Amendments to the City's land use and development regulations are adopted as summarized below and included in full in Exhibit A, attached hereto:

Amendments to Title 5 (Business Licenses and Regulations), Amendments to Title 14 (Environmental Protection), Amendments to Title 15 (Buildings and Construction):

- Updating references to RCW and WAC sections

Amendments to Title 18A (Land use and Development Code):

- 18A.10.125 - Inserting map to show where JBLM flight patterns overlay Lakewood
- 18A.10.070 (C) and (N) - Updating text regarding Director's Interpretations
- 18A.10.180 – updating Definitions
- 18A.20.080 – updating Review Authorities for form-based codes
- 18A.40.020 – updating Director Determinations
- 18A.40.040 – allowing personal services as a permitted use in Commercial 1 zone
- 18A.40.110 – allowing 3-Family dwellings in the Multi-Family 1, Neighborhood Commercial 1, Neighborhood Commercial 2, and Arterial Residential/Commercial zones
- 18A.60.090(A)(4) – clarifying minimum lot width in MR2 zone
- 18A.60.100 – correcting rounding of fractions practices
- 18A.80 – updating Parking Regulations
- 18A.95 – updating Wireless Services Facilities regulations
- Various scrivener corrections to cross-references to RCW and WAC sections

Section 3. Remainder Unchanged. The rest and remainder of the Lakewood Comprehensive Plan, including the unaffected sections of the Future Land-Use Map and Zoning Map, and the unaffected sections of the Lakewood Municipal Code, shall be unchanged and shall remain in full force and effect.

Section 4. Severability. If any portion of this Ordinance or its application to any person or circumstances is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 5. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after final passage.

ADOPTED by the City Council of the City of Lakewood this 16th day of August, 2021.

CITY OF LAKEWOOD



Don Anderson, Mayor

Attest:



Briana Schumacher, City Clerk

Approved as to Form:



Heidi Ann Wachter, City Attorney

EXHIBIT A
2021 ANNUAL DEVELOPMENT REGULATION AMENDMENTS

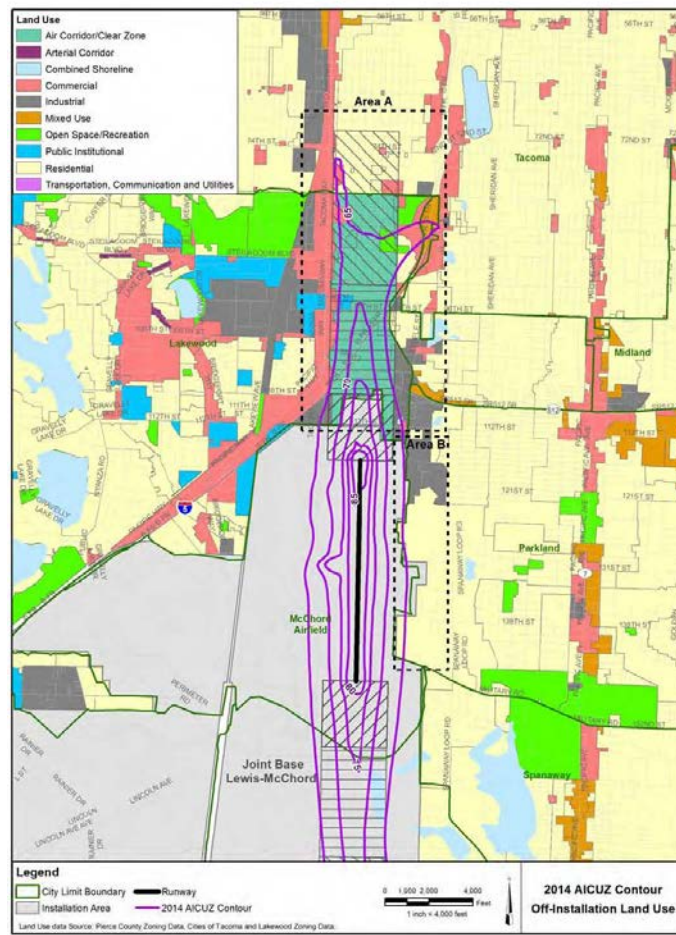
Where portions of Lakewood Municipal Code sections or chapters are included below, the remainder of those sections or chapters remain unchanged.

Title 18A

[Insert new Section 18A.10.125 and Figure 3]

18A.10.125 JBLM AICUZ in relation to Land Use Zones. The City of Lakewood is host City to Joint Base Lewis McChord, and portions of the JBLM flight patterns' Clear Zone (CZ) and Accident Potential Zones (APZs) are located within the City's boundaries. The City follows Department of Defense guidance and limits land use densities within the CZ and APZs. See Figure 3.

Figure 3. 2014 AICUZ Contour & Off-Installation Land Use



Source: 2015 JBLM Air Installation Compatible Use Zone (AICUZ) Study

18A.10.070 Interpretations

* * *

C. Interpretation of Land Use Tables. See 18A.40.020, interpretation of land use tables.

* * *

N. Interpretations of the Director shall be appealable to the Hearing Examiner as set forth in Chapter 18A.20 LMC, Part IV.

18A.10.180 Definitions

~~Affordable housing” and “affordable unit” mean a dwelling unit(s) reserved for occupancy by eligible households and having monthly housing expenses to the occupant no greater than thirty (30) percent of a given monthly household income, adjusted for household size, as follows:~~

- ~~1. Moderate Income. For owner-occupied housing, eighty (80) percent of the area median income, and for renter-occupied housing, sixty (60) percent of the area median income.~~
- ~~2. Pursuant to the authority of RCW 36.70A.540, the City finds that the higher income levels specified in the definition of affordable housing in this title, rather than those stated in the definition of “low-income households” in RCW 36.70A.540, are needed to address local housing market conditions in the City.~~
- ~~3. For Chapter 3.64 LMC, “affordable housing” means residential housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty (30) percent of the household’s monthly income. For the purposes of housing intended for owner occupancy, “affordable housing” means residential housing that is within the means of low- or moderate-income households.~~

"Affordable housing" means residential housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income. For the purposes of housing intended for owner occupancy, "affordable housing" means residential housing that is within the means of low or moderate-income households.

“Antenna” means

- means any exterior apparatus designed for telephonic, radio, data, Internet, or television communications through the sending and/or receiving of electromagnetic

waves, and includes equipment attached to a tower or building for the purpose of providing telecommunications services-an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under 47 CFR Part 15; and

- an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under 47 CFR Part 15.

"Campus facilities master plan" means the area that is defined by the University of Washington as necessary for the future growth and development of its campus facilities for campuses authorized under RCW 28B.45.020.

"Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty (80) percent of the median family income adjusted for family size, for the county, city, or metropolitan statistical area, where the project is located, as determined by the United States Department of Housing and Urban Development for the Tacoma Primary Metropolitan Statistical Area. reported by the United States department of housing and urban development.

"Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is more than eighty (80) percent but is at or below one hundred fifteen (115) percent of the median family income adjusted for family size, for the county, city, metropolitan statistical, where the project is located, as reported by the United States department of housing and urban development. For cities located in high-cost areas, "moderate income household" means a household that has an income that is more than one hundred (100) percent, but at or below one hundred fifty (150) percent, of the median family income adjusted for family size, for the county where the project is located.

Multifamily housing" or "multifamily" means building(s) having four (4) or more dwelling units designed for permanent residential occupancy resulting from new construction or rehabilitation or conversion of vacant, underutilized, or substandard buildings.

"Multiple-unit housing," "multifamily housing," and "multifamily" may be used interchangeably and mean a building or a group of buildings having four (4) or more dwelling units for permanent residential occupancy, not designed or used as transient accommodations and not including hotels and motels. Multifamily units may result from new construction or rehabilitated or conversion of vacant, underutilized, or substandard buildings to multifamily housing.

~~Permanent residential occupancy” means multifamily housing that provides either rental or owner occupancy for a period of at least one (1) month. This excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis.~~

~~"Permanent residential occupancy" means multiunit housing that provides either rental or owner occupancy on a nontransient basis. This includes owner-occupied or rental accommodation that is leased for a period of at least one (1) month. This excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis.~~

“Residential target area” (“RTA”) means an area that has been designated by the City Council as lacking sufficient, available, desirable, and convenient residential housing to meet the needs of the public. With respect to designations after July 1, 2007, "residential targeted area" may not include a campus facilities master plan. See Chapter 3.64 LMC.

"Substantial compliance" means compliance with local building or housing code requirements that are typically required for rehabilitation as opposed to new construction.

"Urban center" means a compact identifiable district where urban residents may obtain a variety of products and services. An urban center must contain (a) Several existing or previous, or both, business establishments that may include but are not limited to shops, offices, banks, restaurants, governmental agencies; (b) Adequate public facilities including streets, sidewalks, lighting, transit, domestic water, and sanitary sewer systems; and (c) A mixture of uses and activities that may include housing, recreation, and cultural activities in association with either commercial or office, or both, use.

18A.20.080 Review Authorities

Applications	Public Notice of Application	Director	HE	PC	CC
TYPE I ADMINISTRATIVE					
<u>Form Based Code Review & Decision</u>	<u>N</u>	<u>D</u>	<u>O/Appeal</u>	<u>N</u>	<u>N</u>

[NOTE: Proposed for clarification. Currently, the term zoning certification is used for form based code review; this would use the terminology found in LMC 18B.700.710 (F.)]

18A.40.020 Interpretation of land use tables.

* * *

G. Any proposed use not listed in the land use table(s) shall be classified by the Director as permitted, conditional, or not permitted, based on the listed uses to which the proposed use

	Zoning Classifications																				
Residential Land Uses	R1	R2	R3	R4	MR1	MR2	MF1	MF2	MF3	ARC	NC1	NC2	TOC	CB	C1	C2	C3	IBP	I1	I2	PI
Detached single-family (B)(5)	P	P	P	P	P	P	-	-	-	P	-	-	-	-	-	-	-	-	-	-	-
Two-family residential, attached or detached dwelling units	-	-	-	C	P	P	P	-	-	P	P	P	-	-	-	-	-	-	-	-	-
Three-family residential, attached or detached dwelling units	-	-	-	-	C	C	P	-	-	P	P	P	-	-	-	-	-	-	-	-	-
Multifamily, four or more residential units	-	-	-	-	-	-	P	P	P	P	P	P	P	P	-	-	-	-	-	-	-

P: Permitted Use C: Conditional Use “-”: Not allowed

* Numbers in parentheses reference use-specific development and operating conditions under subsection (B) of this section.

18A.60.090.A.4.

The minimum width for all lots shall be fifty (50) feet except for lots created within the MR2 zoning district, which are governed by LMC 18A.60.030 (A).

18A.60.100.

E. When calculations result in a fraction, the fraction shall be rounded down to the nearest whole number as follows:

1. Fractions of 0.50 or above shall be **rounded down**; and
2. Fractions below 0.50 shall be **rounded down**.

18A.80 Parking

18A.80.020 General requirements.

G. Location. Off-street parking facilities shall be located on the same property as the use they are required to serve ~~and within three hundred (300) feet of the use~~, except as provided below. Where a distance is specified, such distance shall be the walking distance measured from the nearest point of the parking facilities to the nearest point of the building that such facility is required to serve.

1. For a nursing home, assisted living facility, convalescent home, or group home, the parking facilities shall be located within one hundred (100) feet of the building they are required to serve.

2. For multifamily dwellings where the lot cannot accommodate all the required parking on site for its needs, up to forty (40) percent of the required parking may be located on a lot adjacent to the development; ~~provided, that the lot is legally encumbered pursuant to LMC 18A.80.060.~~

3. For all nonresidential uses where the lot cannot accommodate all the required parking on-site for its needs, parking facilities shall be located not farther than seven hundred fifty (750) feet from the facility. ~~; provided, that the lot is legally encumbered pursuant to LMC 18A.80.060.~~ Parking shall not be permitted on properties zoned single-family residential (R1, R2, R3, R4) or open space (OSR1 and OSR2) unless the parking is being provided for a use that is permitted in said district.

4. For subsections G.1., G.2., and G. 3., off-site parking lots must be legally encumbered pursuant to LMC 18A.89.060.

I. Mechanical Parking Lifts. In commercial zones and multi-family developments, by approving a mechanical lift permit, mechanical parking lifts may be used to satisfy all or a portion of vehicle parking requirements. Additional surface parking up to twenty-five percent (25-percent) of the required minimum amount of spaces may be required for lift systems unable to accommodate a range of vehicles including trucks, vans, SUV's, or large sedans. Applications submittals shall include any information deemed necessary by the Director to determine parking can adequately and feasibly be provided and that the following performance standards can be met and the following findings for approval can be made:

1. The use of mechanical lift parking results in superior design and implementation of City goals and policies for infill development.

2. In existing developments and established neighborhoods, mechanical lift parking will be adequately screened and compatible with the character of surrounding development; and, in new developments, mechanical lift parking be compatible and appropriately considered with overall building and site design.

3. Mechanical lift parking systems shall comply with all development standards including but not limited to height and setback requirements, and parking and

driveway standards with the exception of minimum parking stall sizes which are established by lift specifications.

4. There exists adequate agreement running with the land that mechanical parking systems will be safely operated and maintained in continual operation with the exception of limited periods of maintenance.

5. There are no circumstances of the site or development, or particular model or type of mechanical lift system which could result in significant impacts to those living or working on the site or in the vicinity.

18A.80.025 Maintenance

A. It shall be the responsibility of the property owner to ensure that all off-street parking spaces and areas required by this chapter are maintained for the duration of the improvement or use requiring the parking area.

B. All parking facilities, including curbs, directional markings, handicapped symbols, landscaping, pavement, signs, striping, and wheel stops, shall be permanently maintained by the property owner/tenant in good repair, free of litter and debris, potholes, obstructions, and stored material.

C. Drive aisles, approach lanes, and maneuvering areas shall be marked and maintained with directional arrows and striping to expedite traffic movement. Any area not intended for parking shall be signed as such, or, in areas where curb exists, the curb may be painted red in lieu of signs.

18A.95 Wireless Service Facilities

NOTE: Currently, LMC 18A.95.180 states that design standards are the equivalent of “concealment” features and that a small cell couldn’t be expanded beyond its definitional size by an EFR. In its order 20.75 at paragraphs 35 et seq., the FCC specifically referenced the position of local governments and rejected it.

18A.95.180 Review Criteria

* * *

C. *Eligible Facilities Requests.*

Small wireless facilities may be expanded pursuant to an eligible facilities request so long as the expansion (i) does not defeat design elements specifically designated as concealment techniques and b) incorporates the aesthetic elements and design criteria set forth in this chapter in a manner consistent with the rights granted an eligible facility. The design approved in a small wireless facility permit shall be considered concealment elements and such facilities may only be expanded upon submittal of an eligible facilities request described

in ~~LMC 18A.95.160~~, when the modification does not defeat the concealment elements of the small wireless facility

[Note: Various scrivener corrections to reflect recodified or broken/eliminated RCW and WAC section links, including but not limited to:]

State Citation	LMC Section	Status
RCW 7.48A.010(iii)	18A.10.180	Broken link
RCW 36.70A.040(12)	18A.10.180	Broken link
RCW 36.70A.040(13)	18A.10.180	Broken link
Chapter 51-21 WAC	15.05.020	Broken link
WAC 197-11-315(a)	14.02.060	Broken link
RCW 70.94.524	18A.80.020 18A.80.040	Recodified to 70A.15.4010
Chapter 70.96A RCW	5.32.070	Recodified to 71.24.510 et seq.
Chapter 70.105 RCW	14.165.010 18A.40.025	Recodified to RCW 70.300