



**LYNNWOOD
WASHINGTON**

CITY OF LYNNWOOD

ORDINANCE NO. 3126

**AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON,
RELATING TO IDENTIFICATION AND SITING OF ESSENTIAL PUBLIC
FACILITIES, ADDING NEW DEFINITIONS TO CHAPTER 21.02
LYNNWOOD MUNICIPAL CODE (LMC), ADDING A NEW CHAPTER
21.73 LMC, AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE
DATE AND SUMMARY PUBLICATION.**

WHEREAS, under Chapters 35A.11 and 35A.63 RCW, the City Council of the City of Lynnwood has the authority to adopt ordinances relating to the use of real property located within the City; and

WHEREAS, from time to time, it is in the public's interest to amend the City's land use and development regulations to ensure those provisions are consistent with and implement the comprehensive plan and support the public's general health, safety, and welfare; and

WHEREAS, the City Council finds these provisions are in the best interest of the health, safety and welfare of the community; and

WHEREAS, the Washington State Growth Management Act (specifically RCW 36.70A.200) requires that cities and counties establish a process for the identification and siting of essential public facilities (EPFs); and

WHEREAS, the Capital Facilities and Utilities Element of the Lynnwood Comprehensive Plan contains policies relating to the identification and siting of EPFs, while Lynnwood's Zoning Code lacks concise regulations for EPFs; and

WHEREAS, the Washington State Growth Management Act [specifically RCW 36.70A.040(4)] requires that Lynnwood's development regulations be consistent with and implement the Lynnwood Comprehensive Plan; and

WHEREAS, on the 2nd day of January, 2015, the City of Lynnwood SEPA Responsible Official issued a Determination of Non-Significance (DNS) on the proposal; and

WHEREAS, on the 16th day of December, 2014, notice of the proposed code amendment was sent to the Washington State Department of Commerce in accordance with RCW 36.70A.106; and

WHEREAS, on the 22nd day of January, 2015, the Lynnwood Planning Commission held a public hearing on proposed amendments to the Lynnwood Municipal Code provided by this ordinance, and all persons wishing to be heard were heard; and

WHEREAS, on the 22nd day of January, 2015, the Lynnwood Planning Commission continued the public hearing to February 12, 2015 to allow for additional public testimony on the proposed amendments; and

WHEREAS, following the public testimony portion of the public hearing, the Planning Commission deliberated on the draft legislation and by regular motion voted to recommend that the Lynnwood City Council adopt the amendments to the Lynnwood Municipal Code as provided herein; and

WHEREAS, on the 27th day of April, 2015, the Lynnwood City Council held a public hearing on proposed amendments to the Lynnwood Municipal Code provided by this ordinance, and all persons wishing to be heard were heard; now, therefore:

THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings. Upon consideration of the provisions of this Ordinance in light of the decision criteria specified by LMC 21.20.500, the City Council finds that the amendments contained herein are: a) consistent with the comprehensive plan; and b) substantially related to the public health, safety, or welfare; and c) not contrary to the best interest of the citizens and property owners of the city of Lynnwood.

Section 2. Amendment. Chapter 21.02 LMC is hereby amended by adding the following definitions for “essential public facility”, “essential public facility, local”, and “essential public facility, state and regional”, and by codifying such definitions in a manner that maintains alphabetical order, and by renumbering the sections within Chapter 21.02 LMC to maintain alphabetical order.

Essential public facility.

Essential public facility” or “EPF” means a facility that is typically difficult to site, such as an airport, a state education facility, a state or regional transportation facility as defined in RCW 47.06.140 and WAC 365-196-550, regional transit authority facilities as defined by RCW 81.112.020, a state or local correctional facility, a solid waste handling facility, or an inpatient facility, including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020. The term “essential public facility”

includes all facilities listed in RCW 36.70A.200, and all facilities that appear on the list maintained by the State Office of Financial Management pursuant to RCW 36.70A.200(4).

Essential public facility, local.

“Essential public facility, local” means an EPF that is owned, operated, or sponsored by the City of Lynnwood, a special purpose district, Snohomish County, or another unit of local government. A local EPF may also be proposed by a non-governmental entity with the primary purpose of providing services to residents of Lynnwood and surrounding communities (to be generally defined as southwest Snohomish County). An EPF is “sponsored” by a local government when it is to be owned or operated by a nongovernmental entity pursuant to a contract with the local government to provide the EPF.

Essential public facility, state and regional.

“Essential public facility, state and regional” means an EPF that is owned, operated, or sponsored by Snohomish County or a regional governmental or private sector agency or corporation (including non-profit) whose service boundaries encompass an area that is greater than Lynnwood and surrounding communities in Snohomish County.). An EPF is “sponsored” by a governmental entity when it is to be owned or operated by a nongovernmental entity pursuant to a contract with the local government to provide the EPF.

Section 3. Amendment. Title 21 LMC is hereby amended by adding a new chapter 21.73 LMC to read as follows:

21.73.010 Purpose—Applicability.

A. Essential public facilities are necessary and important in the provision of public systems and services. The city of Lynnwood already hosts, is planning to host, or borders on a number of essential public facilities, including, but not limited to, the following:

1. I-5
2. Sound Transit/ Community Transit – Transit Center
3. Sound Transit Light Rail stations, parking facilities, tracks and related facilities
4. State Route 525

B. The purpose of this chapter is to implement the Growth Management Act and the Lynnwood comprehensive plan by establishing processes for the siting and expansion of essential public facilities in the City of Lynnwood as necessary to support orderly growth and delivery of public services. The City’s goal in promulgating the regulations under this chapter is to ensure the timely, efficient and appropriate siting of EPFs while simultaneously identifying, analyzing, and mitigating adverse community and environmental impacts that may be created by such facilities. Nothing in this chapter should be construed as an attempt by the city to preclude the siting of essential public facilities in contravention of applicable state law.

21.73.020 Siting or Expansion of Local Essential Public Facilities.

A. A Conditional Use Permit shall be required as provided in this section before any local essential public facility may be located or expanded within the City of Lynnwood, regardless of the zoning district in which such facility is or is proposed to be located.

B. A complete application for a Conditional Use Permit for a local essential public facility shall include all items required under Chapter 21.24 LMC.

C. A Conditional Use Permit for a local essential public facility shall be approved upon a determination that:

1. The project sponsor has demonstrated a need for the project, as supported by a detailed written analysis of the projected service population, an inventory of existing and planned comparable facilities, and the projected demand for the type of facility proposed;

2. The project sponsor has reasonably investigated alternative sites, as evidenced by a detailed explanation of site selection methodology, as verified by the city and reviewed by associated jurisdictions and agencies;

3. The local essential public facility is not located in any residential zoning districts, except as provided in this subsection. If the land on which a local essential public facility is proposed is located in a residential zoning district, the applicant must demonstrate that there is no other feasible location for the facility and that the exclusion of the facility from the residential districts of the city would preclude the siting of all similar facilities anywhere within the city. If the applicant is able to make such a demonstration, the hearing examiner shall authorize the essential public facility to be located in the residential zoning district.

4. The local essential public facility meets all provisions of this code for development within the zoning district in which it is proposed to be located. If a local essential public facility does not meet all such provisions, the applicant must demonstrate that compliance with such provisions would preclude the siting of all similar facilities anywhere within the city. If the applicant is able to make such a demonstration, the hearing examiner shall authorize the essential public facility to deviate from the provisions of this code to the minimum extent necessary to avoid preclusion; and

D. The hearing examiner may approve, or approve with modifications, and impose reasonable conditions upon the local essential public facility in order to ensure that:

1. Necessary infrastructure is or will be made available to ensure safe transportation access and transportation concurrency;

2. Adequate service capacity is or will be made available to ensure that public agencies have the capacity to handle changes in the demand for public services that may occur as the result of the facility, including but not limited to insurance costs, public awareness and public education costs and that the facility will not adversely affect public safety;

3. Any and all probable significant adverse environmental impacts including but not limited to, noise, air quality, habitat, soil quality and soil stability of neighboring properties and light pollution are adequately mitigated.

E. The decision criteria set forth herein shall not be applied in such a manner as to preclude the siting or expansion of any local essential public facility in the City of Lynnwood. In the event that a local essential public facility cannot, by the imposition of reasonable conditions of approval, be made to meet the decision criteria this section on the preferred site described in the proposal, the hearing examiner shall either:

1. Require the local essential public facility to be located on one of the investigated alternative sites, if the proposal can be reasonably conditioned to meet the decision criteria at the alternative site; or

2. Approve the siting or expansion of the local essential public facility at the proposed site with such reasonable conditions of approval as may be imposed to mitigate the impacts of the proposal to the maximum extent practicable, if there is no available alternative site on which the decision criteria can be met.

21.73.030 Siting and expansion of state and regional essential public facilities.

A. A development agreement shall be required as provided by chapter 1.37 LMC and this section before any state or regional essential public facility may be located or expanded within the City of Lynnwood. Any proposal for the siting or expansion of a state or regional essential public facility shall follow the procedures established by LMC for the underlying land use permit, such as short subdivision, binding site plan, or project design review, prior to the public hearing for the development agreement. If the underlying permit ordinarily requires a public hearing, the public hearing required for the underlying permit shall be consolidated with the public hearing for the development agreement. Notice of the application and the required public hearing shall be given as required for the underlying permit and for development agreements. The siting process for a secure community transition facility shall be as provided by LMC 21.24.410.

B. If the land on which a state or regional essential public facility is proposed is located in a residential zoning district, the applicant shall have the burden to demonstrate that there is no other feasible location for the facility and that the facility is not expected to result in unmitigated significant adverse impacts. If the applicant is able to make such a demonstration, the hearing examiner shall authorize the essential public facility to be located in the residential zoning district.

C. State and regional essential public facilities shall meet all applicable provisions of LMC. If a proposed state or regional essential public facility does not meet all such provisions, the applicant shall have the burden to demonstrate that compliance with such provisions would either preclude the siting of such facilities in the city, or would not result in the public benefit related to the provision. If the applicant is able to make such a demonstration, the development agreement may authorize the essential public facility to deviate from the provisions of this code to the minimum extent necessary.

D. The city council may approve, or approve with modifications, and impose reasonable conditions upon the state or regional essential public facility in order to ensure that:

1. Necessary infrastructure is or will be made available to ensure safe transportation access and transportation concurrency;

2. Adequate service capacity is or will be made available to ensure that public agencies have the capacity to handle changes in the demand for public services that may occur as the result of the facility, including but not limited to insurance costs, public awareness and public education costs and that the facility will not adversely affect public safety;

3. Any and all probable significant adverse environmental impacts including but not limited to, noise, air quality, habitat, soil quality and soil stability of neighboring properties and light pollution are adequately mitigated.

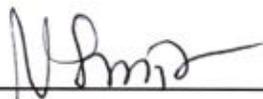
E. The city council may not preclude the siting or expansion of a state or regional essential public facility, but may impose reasonable conditions in order to mitigate adverse impacts that may otherwise occur.

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional 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.

Section 5. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

PASSED THIS 27th day of April, 2015, and signed in authentication of its passage this 27th
 day of April, 2015

APPROVED:



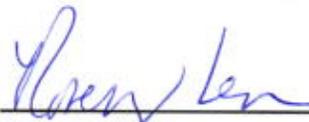
Nicola Smith, Mayor

ATTEST/AUTHENTICATED:



Art Ceniza, Interim Finance Director
and City Clerk

APPROVED AS TO FORM:



Rosemary Larson, City Attorney

FILED WITH ADMINISTRATIVE SERVICES: 04/28/2015
PASSED BY THE CITY COUNCIL: 04/27/2015
PUBLISHED: 04/30/2015
EFFECTIVE DATE: 05/01/2015
ORDINANCE NUMBER: 3126



On the, 27th day of April, 2015 the City Council of the City of Lynnwood, Washington, passed ordinance 3126. A summary of the content of these ordinances, consisting of the title, provides as follows:

ORDINANCE NO. 3126

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, RELATING TO IDENTIFICATION AND SITING OF ESSENTIAL PUBLIC FACILITIES, ADDING NEW DEFINITIONS TO CHAPTER 21.02 LYNNWOOD MUNICIPAL CODE (LMC) ADDING A NEW CHAPTER 21.73 LMC, AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

The full text of this ordinance will be mailed upon request.

DATED this 30th day of April, 2015.

A handwritten signature in cursive script that reads 'Debbie Karber'.

Debbie Karber, Deputy City Clerk

Everett Daily Herald

Affidavit of Publication

State of Washington }
County of Snohomish } ss

Kathleen Landis being first duly sworn, upon oath deposes and says: that he/she is the legal representative of the Everett Daily Herald a daily newspaper. The said newspaper is a legal newspaper by order of the superior court in the county in which it is published and is now and has been for more than six months prior to the date of the first publication of the Notice hereinafter referred to, published in the English language continually as a daily newspaper in Snohomish County, Washington and is and always has been printed in whole or part in the Everett Daily Herald and is of general circulation in said County, and is a legal newspaper, in accordance with the Chapter 99 of the Laws of 1921, as amended by Chapter 213, Laws of 1941, and approved as a legal newspaper by order of the Superior Court of Snohomish County, State of Washington, by order dated June 16, 1941, and that the annexed is a true copy of EDH629955 ORDINANCE NO. 3126 as it was published in the regular and entire issue of said paper and not as a supplement form thereof for a period of 1 issue(s), such publication commencing on 04/30/2015 and ending on 04/30/2015 and that said newspaper was regularly distributed to its subscribers during all of said period.

The amount of the fee for such publication is \$30.46.

Kathleen Landis

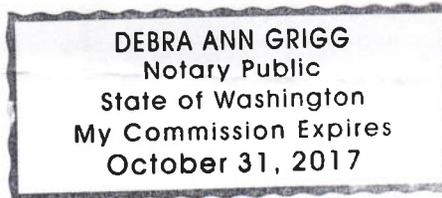
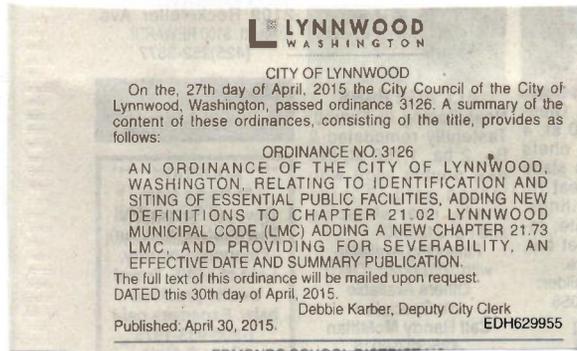
Subscribed and sworn before me on this

1 day of May,
2015.

Debra Ann Grigg

Notary Public in and for the State of Washington.

City of Lynnwood - LEGAL ADS | 14127890
DEBBIE KARBER





LYNNWOOD
WASHINGTON

CERTIFICATE

I, the undersigned, Art Ceniza, the duly appointed Acting City Clerk of the City of Lynnwood, Washington, hereby certify that the Ordinance hereto attached is a full, true and correct copy of Ordinance No. 3126 of the City of Lynnwood, Washington, entitled as follows:

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, RELATING TO IDENTIFICATION AND SITING OF ESSENTIAL PUBLIC FACILITIES, ADDING NEW DEFINITIONS TO CHAPTER 21.02 LYNNWOOD MUNICIPAL CODE (LMC) ADDING A NEW CHAPTER 21.73 LMC, AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

That said ordinance was passed by the Council on April 27, 2015 of said City and was published and posted according to law; that said ordinance was duly published in the official newspaper of said City on April 30, 2015.

Abbie Karber for

Art Ceniza, Acting as City Clerk of the
City of Lynnwood WA

per DSA dated 5/4/2015