

CITY OF LYNNWOOD

ORDINANCE NO. 2045

**AN ORDINANCE AMENDING TITLES 9, 12, 13, 14, 16, 17, 19 AND 21 OF THE LYNNWOOD MUNICIPAL CODE CLARIFYING THAT THE PURPOSES FOR ADOPTING THE REGULATIONS IN THESE TITLES INCLUDE AVOIDING OR ABATING PUBLIC NUISANCES.**

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

Section 1. Findings and Declarations: The City Council of the City of Lynnwood finds and declares that:

General: Cities in the State of Washington are authorized by common law and state statutes to exercise their police power to avoid the creation of a public nuisance or to abate an existing nuisance.

Fire: Fire codes and regulations protect the life, safety and welfare of property owners, individual buildings and their surroundings. In the absence of these regulations, a definite risk to the welfare of the general public, or public nuisance would exist.

Streets and Sidewalks: Regulations requiring private development to install adequate and safe frontage improvements (consisting of streets and sidewalks) allow for the abatement of public nuisance to vehicular and pedestrian traffic that would occur in the absence of such improvements.

Water: The lack of properly designed and constructed infrastructure related to the City's storm drainage system and water supply system can lead to specific damage to public and private property and threaten the health and welfare of the public. Improper drainage controls lead to flooding; lack of proper erosion control during construction results in the siltation of lakes, ponds and streams; the absence of water quality standards would further pollute the surface waters of the City; incorrectly sized water supply mains result in insufficient fire flows. Regulations are necessary to prevent and abate these types of public nuisances.

Sewers: The adequate control on the design and use of the sewer system, including the amount and types of substances released into the wastewater collection and wastewater treatment systems, allows for the proper prevention, control and mitigation of public nuisances, such as the flooding of public and private properties with sewage or the interference of the wastewater treatment system by pollutants that cause the inadequate treatment or pass through of pollutants into the receiving waters.

Building: Building codes protect the life, safety and welfare of property owners, individual buildings and their surroundings by regulating the methods of construction, and types of

materials used. In the absence of these regulations, a definite risk to the welfare of the general public, or public nuisance would exist.

Environment: The protection and preservation of natural and sensitive environmental areas provides for the maintenance of the quality of life for the community by allowing natural areas to exist that filter and cleanse stormwater runoff, protect valuable groundwater resources, allow for natural floodwater storage, provide buffers between natural and man-made areas, and provide for preservation and safe building practices on steep slopes. The absence of such regulation in critical areas would result in the degradation of our environment and unsafe or hazardous buildings or properties.

Subdivisions: The size and location of parcels or lots of land, public and private streets, and facilities for public and private utilities (including, but not limited to easements and utility corridors) affects owners and tenants of adjoining properties and in the surrounding neighborhood, particularly through the provision of circulation and public and private utilities. The reasonable regulation of the arrangement of lots and streets and facilities for utilities so as to provide for the common use of such facilities by an entire neighborhood can avoid the creation of a public nuisance.

Zoning: In the absence of any regulation regarding the location, height, size or manner of property development or the nature, hours of operation or specific activities associated with the use of that property or development, the development and use of a property can allow the creation and maintenance of a public nuisance through the unreasonable interference with the enjoyment of properties in the surrounding neighborhood.

Section 2. Amendment: Section 9.16.180 and Ordinance 453 are each amended to read as follows:

#### 9.16.180 COMPLIANCE REQUIRED

The passage of this chapter is necessary for the protection of health, safety and welfare of the citizens of the City and to avoid or abate public nuisances. No building permits shall be issued for erection of any building or structure until reasonable proof of intent to comply with this chapter is indicated and the approving authority is satisfied that hydrants are to be and/or can be installed to comply with this chapter.

Section 3. Amendment: A new section is added to Chapter 12.12 to read as follows:

#### 12.12.005 Purpose

The purpose of this section is to regulate and promote the development of sidewalks, planting strips and transition strips and to avoid or abate public nuisances through the construction of facilities designed to provide safe passage of pedestrians.

Section 4. Amendment: Section 13.35.010 and Ordinance 1813 are each amended to read as follows:

### 13.35.010 PURPOSE - FINDINGS

The City finds and declares:

1. All real property in the City contributes runoff to the common surface water problem, and all real property in the City benefits from the surface water utility of the City.
2. The development of real property, as measured by the square footage of impervious surface area, is an appropriate basis for the determination of an individual parcel's contribution to the problem of surface water runoff.
3. The establishment of the surface water utility is necessary to avoid and abate public nuisances.

Section 5. Amendment: Section 13.40.010 and Ordinances 908 and 1082 are each amended to read as follows:

#### 13.40.010 PURPOSE

The City Council finds that this chapter is necessary to promote sound development policies and construction procedures which respect and preserve the City's watercourses; to minimize water quality degradation and control of sedimentation of creeks, streams, ponds, lakes and other water bodies; to protect the life, health, and property of the general public; to preserve and enhance the suitability of waters for contact recreation and fishing; to preserve and enhance the aesthetic quality of the waters; to maintain and protect valuable groundwater resources; to minimize adverse effects of alterations in groundwater quantities, locations and flow patterns; to insure the safety of City roads and rights-of-way; to decrease drainage-related damage to public and private property; and to avoid or abate public nuisances.

Section 6. Amendment: Section 14.04.005 and Ordinance 1706 are each amended to read as follows:

#### 14.04.005 STATEMENT OF PURPOSE

This Title has as its purpose the protection of public health and safety by controlling the quality of wastewater discharged to the wastewater collection and wastewater treatment system. Pollution control shall be implemented through regulation and control of the quantity and quality of industrial or commercial wastes admitted or discharged which shall enable the City to comply with all applicable State and Federal Laws required by the Federal Clean Water Act of 1977, the General Pretreatment Regulations (40 CFR 403) and any subsequent amendments thereto. The objectives of this Title are:

To protect the health, safety and welfare of the POTW and its personnel and the general public.

To avoid or abate public nuisances.

To make provisions for the collection and treatment of all wastewater generated by domestic and non-domestic sources under the jurisdiction of the City.

To protect the City's wastewater collection and treatment system from pollutants which may interfere with the operation of the system or contaminate the sludges or other waste products generated as a result of operating the system.

To prevent pollutants from entering the wastewater treatment and collection system which could pass through the system, inadequately treated, into the receiving waters.

To generate sufficient revenues to operate, maintain, repair, improve and construct the wastewater collection and treatment system.

Section 7. Amendment: Section 16.46.010 and Ordinance 1462 are each amended to read as follows:

16.46.010 STATEMENT OF PURPOSE

- A. It is the purpose of this legislation to promote the public health, safety, and general welfare to avoid or abate public nuisances, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:
1. To protect human life and health;
  2. To minimize expenditure of public money and costly flood control projects;
  3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  4. To minimize prolonged business interruptions;
  5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
  6. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
  7. To ensure that potential buyers are notified that property is in an area of special flood hazard; and

8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

## B. METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purpose, this legislation includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging, and other development which may increase flood damage; and
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

Section 8. Amendment: Section 17.10.010 and Ordinance 1877 are each amended to read as follows:

### 17.10.010 PURPOSE

The purpose of this Chapter is to identify critical areas and to supplement the development requirements contained in the Building Code and in the various use classifications in the Lynnwood City Code by providing for additional controls as required by the Washington State Growth Management Act and other state law. Wetlands, fish and wildlife habitat conservation areas, areas of geologic hazard and flood hazard areas as defined in Section 17.10.030 constitute critical areas that are of special concern to the City of Lynnwood. The standards and mechanisms established in this Chapter are intended to protect these environmentally sensitive features and to avoid or abate public nuisances while providing property owners with reasonable use of their property. By regulating development and alterations to critical areas this ordinance seeks to:

- A. Protect the public health, safety and welfare by preventing adverse impacts of development;

- B. Educate the public as to the long-term importance of environmentally sensitive areas and the responsibilities of the City to protect and preserve the natural environment for future generation;
- C. Preserve and protect environmentally sensitive areas by regulating development within and adjacent to them;
- D. Mitigate unavoidable impacts to environmentally sensitive areas by regulating alterations in and adjacent to critical areas;
- E. Prevent, to the extent practicable, adverse cumulative impacts to the water quality, wetlands, streams, stream corridors and fish and wildlife habitat;
- F. Restore streams and watercourses, particularly those associated with Scriber Creek and Swamp Creek to their natural condition wherever possible and reasonable and establish development incentives to encourage such restoration;
- G. Protect the public and public resources and facilities from injury, loss of life, property damage or financial losses due to flooding, erosion, landslides, soil subsidence or steep slope failure;
- H. Alert appraisers, assessors, owners and potential buyers or lessees to the development limitations of environmentally sensitive areas; and
- I. Provide the City of Lynnwood with information necessary to approve, condition, or deny public or private development proposals;
- J. Provide predictability and consistency to the City of Lynnwood's development review process; and
- K. Implement the policies of the State Environmental Policy Act, Chapter 43.21C RCW, the Growth Management Act, the City of Lynnwood Policy Plan and all City functional plans and policies.

Section 9. Amendment: Section 19.05.010 and a portion of Ordinance 1314 are revised to read as follows:

19.05.010 PURPOSE

The purpose of this title is to regulate the subdivision of land, to avoid or abate public nuisances and to promote the public health, safety, aesthetics and general welfare in accordance with Chapter 58.17 RCW and the standards as established by the City of Lynnwood; to prevent overcrowding of land and the over congestion of streets and highways while allowing for appropriate density of development and use of the land; to provide for adequate circulation of light and air; to facilitate adequate provisions for water, sewage, park and recreation areas, streets, sidewalks and other public

requirements; to provide for proper ingress and egress; to provide for effective use of land; to provide for expeditious review and approval of proposed subdivisions which conform to the zoning standards and local plans and policies of the City of Lynnwood; to adequately provide for the housing and commercial needs of the citizens of Lynnwood; and to require uniform monumenting of land subdivisions and conveyancing by accurate legal descriptions.

Section 10. Amendment: Subsection A of Section 21.04.015 and a portion of Ordinance 2020 are revised to read as follows:

#### 21.04.015 PURPOSE

This title provides regulations concerning the use of land and structures and the location, size, and bulk of structures for the purpose of avoiding or abating public nuisances. This title also intends to promote the protection and promotion of the quality of the natural environment and the health, safety, morals, and other aspects of the general welfare of present and future inhabitants of the City of Lynnwood in accordance with the Comprehensive Plan and state law and judicial decisions regarding land use regulations. To these ends, it is the intent of these regulations to:

- assure adequate light, air, and access;
- prevent the overcrowding of land;
- avoid undue concentration of populations;
- lessen congestion in the streets;
- provide ample parking;
- maximize safety from fire, panic, and other dangers;
- facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public services to prevent urban sprawl;
- secure economy in governmental expenditures through efficient use of land;
- protect property against blight and depreciation;
- preserve, whenever feasible and practical, significant trees, wildlife, water courses, and other features of the natural environment;
- encourage high aesthetic standards in the development of land;
- promote desirable living conditions and the stability of neighborhoods; and
- in general encourage the most appropriate use of land and structures throughout the City.

These general purposes include the more specific purposes set forth elsewhere in this title.

Section 11: Severability. If any section, subsection sentence, clause, phrase or word of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

Section 12: Effective Date. The effective date of this Ordinance shall be July 22, 1995, which is more than five days after the passage and publication of this Ordinance, provided, if the effective date of Initiative 164 is delayed or stayed, then the effective date of this Ordinance shall be stayed, and this Ordinance shall then only become effective on the effective date of Initiative 164.

Passed this 10th day of July 1995, and signed in authentication of its passage this 11th day of July 1995.

  
TINA ROBERTS, Mayor

ATTEST:

  
R. W. NOACK, City Clerk

APPROVED AS TO FORM:

  
JOHN P. WATTS, City Attorney

PUBLISHED: