

**CITY OF LYNNWOOD**

**ORDINANCE NO. 2426**

City of Lynnwood

NOV 15 2002

**SCANNED**

AN ORDINANCE ADOPTING BY REFERENCE CERTAIN SECTIONS OF THE WASHINGTON ADMINISTRATIVE CODE RELATING TO ENVIRONMENTAL REVIEW OF PLANNED ACTIONS; CREATING A NEW SECTION 17.02.025 OF THE LYNNWOOD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR SUMMARY PUBLICATION.

WHEREAS, Lynnwood is a city that plans under the Growth Management Act and is thus eligible to use the planned action process under the State Environmental Policy Act (SEPA); and

WHEREAS, the impacts of planned actions are evaluated in an EIS prepared on proposals for legislation and other major actions having probable significant, adverse environmental impact; and

WHEREAS, the planned action process allows cities to designate a planned action that has already had its significant impacts adequately addressed in an environmental impact statement, and thus do not require a threshold determination or the preparation of a separate environmental impact statement; and

WHEREAS, the planned action process is a tool the City can use to meet SEPA requirements without duplicating review and while expediting the permitting process.

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

Section 1: New Section: Section 17.02.025 of the Lynnwood Municipal Code is hereby enacted as follows:

17.02.025 Adoption by reference

The city adopts by reference the following sections of Chapter 197-11 of the Washington Administrative Code (WAC) relating to planned actions, as now exist or as hereafter amended:

WAC

- 197-11-164 Planned Actions—Definitions and criteria.
- 197-11-168 Ordinances or resolutions designating planning actions—Procedures for adoption.
- 197-11-172 Planned actions—Project review.

The adopted sections of Chapter 197-11 as they exist on the date of adoption of this ordinance are set forth in full in the attached appendix to this ordinance.

Section 2: New Section. Section 17.02.027 of the Lynnwood Municipal Code is hereby enacted, as follows:

17.02.027 Planned Action EIS – Additional Provisions

A. Periodic Update

No later than five years following approval of a Planned Action EIS, and every five years thereafter, the City's Responsible Official shall review the content of the EIS and determine whether the EIS adequately describes the probable significant adverse environmental impacts of development(s) designated as Planned Action. If the Responsible Official determines that the EIS does not adequately describe the probable significant adverse environmental impacts, the Responsible Official shall issue a report identifying the inadequacies in the EIS. No development may be processed as a Planned Action until the deficiencies in the EIS have been addressed in additional environmental document(s).

If the Official determines that the EIS does adequately describe the probable significant adverse environmental impacts, no new environmental document is required.

Notice of a determination under this subsection shall be provided to all parties of record for the Planned Action EIS and to anyone who has requested notification of action under this subsection.

Any determination pursuant to this subsection may be appealed by filing a written appeal with the Responsible Official no later than 14 calendar days following the date of issuance of the determination. Any such appeal shall be processed under PROCESS II (LMC 1.35.200 et. seq.).

B. Fees for Preparation of a Planned Action EIS

1. Where a Planned Action EIS is prepared for activities initiated by some persons or entity other than the City, the Responsible Official may require payment of all of the costs for preparing the EIS (including, but not limited to, staff hours and consultant fees) by the person(s) or entity initiating the action, pursuant to LMC 17.02.260.
2. When a Planned Action EIS is prepared at the initiative of the City, the City may charge a fee on future development that qualifies as a Planned Action in order to recover all costs of preparing the EIS. Such a fee shall be set in the ordinance designating the development that qualifies as a Planned Action, pursuant to WAC 197-11-168.

C. Public Participation

**WAC 197-11-164 Planned actions—Definition and criteria.**

- (1) Under RCW 43.21C.031, GMA counties/cities may designate a planned action. A planned action means one or more types of project action that:
  - (a) Are designated planned actions by an ordinance or resolution adopted by a GMA county/city;
  - (b) Have had the significant environmental impacts adequately addressed in an EIS prepared in conjunction with:
    - (i) A comprehensive plan or subarea plan adopted under chapter 36.70A RCW; or
    - (ii) A fully contained community, a master planned resort, a master planned development, or a phased project;
  - (c) Are subsequent or implementing projects for the proposals listed in (b) of this subsection;
  - (d) Are located within an urban growth area, as defined in RCW 36.70A.030, or are located within a master planned resort;
  - (e) Are not essential public facilities, as defined in RCW 36.70A.200; and
  - (f) Are consistent with a comprehensive plan adopted under chapter 36.70A RCW.
- (2) A GMA county/city shall limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the GMA county/city.
- (3) A GMA county/city may limit a planned action to a time period identified in the EIS or the designating ordinance or resolution adopted under WAC 197-11-168.

**WAC 197-11-168 Ordinances or resolutions designating planned actions—Procedures for adoption.**

- (1) If a GMA county/city chooses to designate a planned action, the planned action must be designated by ordinance or resolution. Public notice and opportunity for public comment shall be provided as part of the agency's process for adopting the ordinance or resolution.
- (2) The ordinance or resolution:
  - (a) Shall describe the type(s) of project action being designated as a planned action;
  - (b) Shall describe how the planned action meets the criteria in WAC 197-11-164 (including specific reference to the EIS that addresses any significant environmental impacts of the planned action);
  - (c) Shall include a finding that the environmental impacts of the planned action have been identified and adequately addressed in the EIS, subject to project review under WAC 197-11-172; and
  - (d) Should identify any specific mitigation measures other than applicable development regulations that must be applied to a project for it to qualify as the planned action.
- (3) If the GMA county/city has not limited the planned action to a specific time period identified in the EIS, it may do so in the ordinance or resolution designating the planned action.

(4) The GMA county/city is encouraged to provide a periodic review and update procedure for the planned action to monitor implementation and consider changes as warranted.

**WAC 197-11-172 Planned actions—Project review.**

(1) Review of a project proposed as a planned action is intended to be simpler and more focused than for other projects. A project proposed as a planned action must qualify as the planned action designated in the planned action ordinance or resolution, and must meet the statutory criteria for a planned action in RCW 43.21C.031. Planned action project review shall include:

(a) Verification that the project meets the description in, and will implement any applicable conditions or mitigation measures identified in, the designating ordinance or resolution; and

(b) Verification that the probable significant adverse environmental impacts of the project have been adequately addressed in the EIS prepared under WAC 197-11-164 (1)(b) through review of an environmental checklist or other project review form as specified in WAC 197-11-315, filed with the project application.

(2) (a) If the project meets the requirements of subsection (1) of this section, the project shall qualify as the planned action designated by the GMA county/city, and a project threshold determination or EIS is not required. Nothing in this section limits a GMA county/city from using this chapter or other applicable law to place conditions on the project in order to mitigate nonsignificant impacts through the normal local project review and permitting process.

(b) If the project does not meet the requirements of subsection (1) of this section, the project is not a planned action and a threshold determination is required. In conducting the additional environmental review under this chapter, the lead agency may use information in existing environmental documents, including the EIS used to designate the planned action (refer to WAC 197-11-330 (2)(a) and 197-11-600 through 197-11-635). If an EIS or SEIS is prepared on the proposed project, its scope is limited to those probable significant adverse environmental impacts that were not adequately addressed in the EIS used to designate the planned action.

(3) Public notice for projects that qualify as planned actions shall be tied to the underlying permit. If notice is otherwise required for the underlying permit, the notice shall state that the project has qualified as a planned action. If notice is not otherwise required for the underlying permit, no special notice is required. However, the GMA county/city is encouraged to provide some form of public notice as deemed appropriate.

The process for preparation of a Planned Action EIS shall include a public outreach plan designed for the inclusion of the public in the process. The goals of the public outreach plan shall be: :

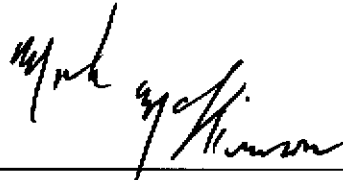
1. To give notice to the public of the intent to approve a Planned Action EIS ; and
2. To solicit from the public comments on the potential environmental impacts of Planned Action development.

The public outreach plan shall emphasize early and continuing public participation and shall provide for: early notification of preparation of a Planned Action EIS (including a description of the Planned Action process), opportunity for written comments (both in establishing the scope of the EIS and in review of the Draft EIS), public meetings after effective notice, provisions for open discussion, communication programs, information services, and consideration and response to public comments. Persons who have filed a written request with the community development department shall be notified of preparation of the EIS and of opportunities to participate in that process.

Section 3. 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 or word of this ordinance.

Section 4. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

PASSED this 14th day of October, 2002 and signed in authentication of its passage this 15th day of October, 2002.



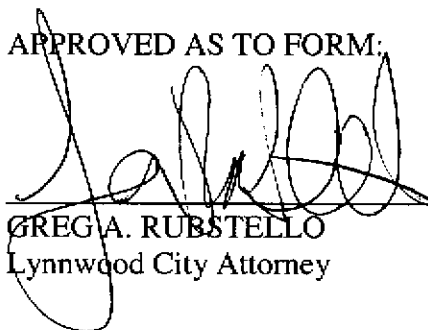
MIKE MCKINNON, MAYOR

ATTEST:



MICHAEL BAILEY  
Finance Director

APPROVED AS TO FORM:



GREG A. RUBSTELLO  
Lynnwood City Attorney