

CITY OF LYNNWOOD

ORDINANCE NO. 2909

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, AMENDING SECTIONS 17.02.040, 17.02.050, 17.02.090, AND 21.25.120 OF THE LYNNWOOD MUNICIPAL CODE RELATING TO PERMIT PROCESSING BY CHANGING THE DESIGNATION OF THE SEPA RESPONSIBLE OFFICIAL; PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

WHEREAS, the City continually reviews its processes to implement opportunities for more streamlined standards and procedures; and,

WHEREAS, the City of Lynnwood designates a committee (Environmental Review Committee) to serve as the City's responsible official under the State Environmental Policy Act; and,

WHEREAS, a committee structure uses more staff resources than designating a single individual to serve as the SEPA responsible official; and,

WHEREAS, local jurisdictions throughout Washington almost uniformly use a single individual to serve as SEPA responsible official to increase accountability, improve customer service, and promote more timely environmental decision-making; and,

WHEREAS, decisions made by committee may be difficult for an applicant to comprehend, respond to or when necessary appeal; and

WHEREAS, internal process and procedures provide for interdepartmental input and consideration into the SEPA process without need to rely upon a cumbersome committee system; and

WHEREAS, the proposal was transmitted to State agencies for State agency review and received by the Washington State Department of Commerce on March 5, 2011 in accordance with RCW 36.70A.106, expedited review granted and no comments were received from State agencies; and,

WHEREAS, on April 18, 2011, the City of Lynnwood Environmental Review Committee issued a Determination of Non-Significance on the proposal with no comments having been received during the public comment period and no appeal having been filed; and,

WHEREAS, on May 26, 2011, the City of Lynnwood Planning Commission held a duly noticed public hearing to take testimony on the proposed ordinance and, following the public hearing, made a recommendation to the Lynnwood City Council; and,

WHEREAS, on September 12, 2011 the City of Lynnwood City Council held a duly noticed public hearing to take testimony on the proposed ordinance; now therefore

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

Section 1. LMC section 21.25.120 is hereby amended as follows,

21.25.120 Compliance with State Environmental Policy Act.

The State Environmental Policy Act (SEPA) applies to some of the decisions that will be made using this process. The SEPA responsible official shall evaluate each application and, where applicable, comply with SEPA and with state regulations and city ordinances issued under the authority of SEPA. (Ord. 2388 § 13, 2001)

Section 2. LMC section 17.02.040 is hereby amended as follows,

17.02.040 Designation of responsible official (WAC 173-806-040).

- A. For those proposals for which the city is the lead agency, the responsible official shall be the Community Development Director and/or his/her designee.
- B. For all proposals for which the city is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to the "lead agency" or "responsible official" by those sections of the SEPA rules that were adopted by reference in WAC 173-806-020.
- C. The city shall retain all documents required by the SEPA rules (Chapter 197-11 WAC) and make them available in accordance with Chapter 42.11 RCW. (Ord. 1415 § 2, 1984)

Section 3 LMC Section 17.02.050 is hereby amended as follows,

17.02.050 Lead agency determination and responsibilities (WAC 173-806-050).

- A. In receiving an application for or initiating a proposal that involves a nonexempt action, the responsible official shall determine the lead agency for that proposal under WAC 197-11-050 and 197-11-922 through 197-11-940.
- B. When the city is the lead agency for a proposal, the responsible official shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.
- C. When the city is not the lead agency for a proposal, the responsible official shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. The responsible official shall not prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the city may conduct supplemental environmental review under WAC 197-11-600.

- D. If the responsible official receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-922 through 197-11-940, the responsible official may object to the determination. Any objection must be made to the agency originally making the determination and resolved within 15 days of receipt of the determination, or the city must petition the Department of Ecology for a lead agency determination under WAC 197-11-940 within the 15-day time period. Any such petition on behalf of the city may be initiated by the responsible official.
- E. The responsible official is authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944.
- F. When making a lead agency determination for a private project, the responsible official shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal. (That is: which agencies require nonexempt licenses?) (Ord. 1415 § 2, 1984)

Section 4. LMC section 17.02.090 is hereby amended as follows,

17.02.090 Use of exemptions (WAC 173-806-080).

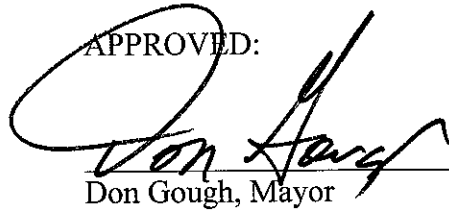
- A. The responsible official shall determine whether the license and/or the proposal is exempt. The responsible official's determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this chapter apply to the proposal. The city shall not require completion of an environmental checklist for an exempt proposal.
- B. In determining whether or not a proposal is exempt, the responsible official shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-060).
- C. If a proposal includes both exempt and nonexempt actions, the responsible official may authorize exempt actions prior to compliance with the procedural requirements of this chapter, except that:
 - 1. The city shall not give authorization for:
 - a. Any nonexempt action;
 - b. Any action that would have an adverse environmental impact; or
 - c. Any action that would limit the choice of alternatives;
 - 2. The responsible official may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and
 - 3. The responsible official may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved. (Ord. 1415 § 2, 1984)

Section 5. 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.

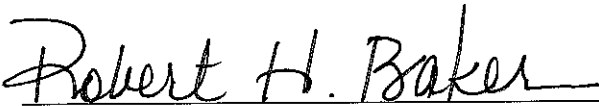
Section 6. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

PASSED BY THE CITY COUNCIL, the 27th day of September, 2011.

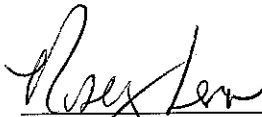
APPROVED:


Don Gough, Mayor

ATTEST/AUTHENTICATED:

for 
Lorenzo Hines
Finance Director

APPROVED AS TO FORM:


Rosemary Larson
City Attorney

FILED WITH ADMINISTRATIVE SERVICES: 8.24.11
PASSED BY THE CITY COUNCIL: September 12, 2011
PUBLISHED: 9.29.2011
EFFECTIVE DATE: 10.4.2011
ORDINANCE NUMBER: 2909

Chapter 21.62

HIGHWAY 99 MIXED USE ZONE

21.62.100 Purpose.

The purpose of this zone is to promote the development of mixed-use nodes at key intersections on Highway 99 (Hwy 99) generally located at Bus Rapid Transit (BRT) stops, as envisioned by the Highway 99 Subarea Plan. Development in these nodes may consist of a combination of pedestrian-oriented retail that serves the local residential population, region-serving retail, multi-family residential development and/or a combination thereof (mixed use). Businesses and residences in this zone will be within a pedestrian-oriented environment designed to cater to transit, walking, and bicycle traffic. Mixed use development can be in the form of vertical mixed use (residential on top of commercial) or horizontal mixed use (residential adjacent to commercial). Development standards and design guidelines will define building and spatial relationships, with particular emphasis on the design of pedestrian spaces, linkages between development, Highway 99, BRT stations, and related pedestrian facilities and amenities.

21.62.150 Interpretation.

No building, structure or land shall be used and no building or structure shall be erected, enlarged or structurally altered, except as provided in the regulations in this Chapter. In the event of conflict between provisions in this Chapter and other provisions of this Title, the provisions of this Chapter shall prevail.

21.62.200 Permitted Land Uses.

The following land uses are permitted.

- A. Principal Uses Permitted Outright.
 1. Retail, office, eating/entertainment (including brewpubs, and outdoor dining as an accessory use to an indoor restaurant), professional offices (including medical and vet clinics), institutional and personal service uses are permitted, except as provided below for conditional uses and prohibited uses.
 2. Multiple family residences (including Convalescent and Nursing Homes, and Housing for the Elderly and Physically Disabled).
 3. Wireless communications facilities
 - a. Facilities attached (to buildings and structures), with no limitations; and
 - b. Freestanding facilities (towers) when designed so that they are not readily identifiable as such, and are designed to be aesthetically compatible with existing and proposed building(s) and uses on a site – sometimes referred to as a “stealth” or “camouflaged” facility. Examples of concealed support structures that can have a secondary, obvious function include, but are not limited to, the following: church steeples, bell towers, clock towers, cupolas, light standards, utility poles, flagpoles, or trees.
 - c. Freestanding facilities existing on the effective date of this Chapter are a permitted use.
 4. Transit stops/stations, not including park-and-ride, park-and-pool, or other transit-related parking areas.
 5. Senior center or community center.
 6. Day-care (for children or adults).
 7. Boarding house, dormitory or other group residential facility suitable for students.
 8. Inn or hotel, provided that parking for any rooms in excess of 100 rooms shall be located in a parking structure.

9. Auto/vehicle dealership (new and/or used vehicles) and vehicle service company, whether a building intended for occupancy by these uses is vacant (structures with a history of housing these uses) or in use, at the time of adoption of this chapter, may expand the business to other parts of the property in existence at the time of this ordinance, but may not expand to adjoining parcels. Provided that, a use that is absent from a property and/or the property is used for other purposes for a continuous period of seven years shall not be allowed to reestablish itself as a dealership or vehicle service company.
10. Drive-up or drive-through service and/or window subject to the following requirements:
 - a. No component of the drive through (such as approaching drive aisle, order box, service window, etc.) shall be located between the building it serves and a public street unless another intervening building(s) or building screening (walls and roof) exists between the drive through and street that blocks visibility of the drive through from the street); and
 - b. No more than two drive through lanes (plus a by-pass lane, where necessary) shall be permitted for the specific business being served by the drive through lane.
 - c. Access to the drive-through shall be provided only from a project parking area; direct access to a drive-through from a project entry aisle or from a public street is not allowed.
 - d. Any/all service windows within 150 feet of a public street may only located on a building wall that sits at an angle of at least 90 degrees to the public street.
 - e. See also LMC 21.18.810 (Stacking Lanes for Drive-Through Facilities).
11. Indoor amusements such as arcades, bowling, pool halls, etc.
12. Auto parts and accessory stores with no service/installation work on the premises.
13. Health & Fitness Club.

B. Principal Uses Allowed by Conditional Use Permit.

1. Performing arts facility.

C. Allowed Accessory Uses. Uses that meet the definition of “accessory” in this Code shall be permitted, except that a new accessory use may not be established at a site with a non-conforming use.

21.62.210 Prohibited Uses.

Uses not listed above as permitted outright or allowed by conditional use permit, or allowed as an accessory use to a permitted primary use, are prohibited in this zone. Notwithstanding any provision above, the uses listed below are specifically prohibited.

- A. Drive-up or drive-through service and/or window that does not meet the requirements of LMC 21.62.200(10).
- B. Auto-oriented commercial uses including, but not limited to:
 1. Gas stations;
 2. Auto repair, auto service shops, or the like;
 3. Auto wrecking, recycling businesses and/or yards;
 4. Car washes; and
 5. New auto dealerships (new and/or used vehicles), except as provided in LMC 21.62.200(9).
- C. Adult establishments and adult retail uses.
- D. Industrial uses.
- E. Warehouses, mini-warehouses, self-storage, mini-storage and the like.
- F. Park-n-ride and park-n-pool lots or facilities.

- G. Freestanding wireless communications towers and support structures (attached wireless facilities are permitted, see above).

21.62.250 Regulations for Specific Uses

- A. Child Day-Care Center. See "Requirements" in LMC 21.46.113.A.2.
- B. Veterinarian Clinics. See LMC 21.46.114.A.
- C. Convalescent and Nursing Homes, and Housing for the Elderly and Physically Disabled. See requirement for passive recreation and/or open space in LMC 21.46.116.C.2.b.
- D. Temporary Outdoor Display of Merchandise. Small, temporary displays of products or merchandise offered for sale by a business may be displayed outdoors, provided that:
 - 1. The display shall be located no more than twenty (20) feet from the primary entry to the business;
 - 2. The area occupied by the display shall not exceed 300 square feet; and
 - 3. The products or merchandise shall be displayed outdoors only when the business is open ; and
 - 4. Sidewalks shall not be enclosed as building space for retailing by fencing or other means that effectively limits public use of the sidewalk.
 - 5. The limitations in this subsection do not apply to the display of automobiles or other merchandise that require outdoor storage. Such displays are permitted as a normal part of that use or business.

21.62.300 Project Design Review.

- A. Design Guidelines. Construction of the following structures and parking facilities in the Highway 99 Mixed Use zone shall comply with the Highway 99 Design Guidelines (which are adopted by this reference as if fully set forth herein) and receive approval pursuant to Chapter 21.25 LMC, unless otherwise specified in this chapter:
 - 1. Construction or expansion of any nonresidential structure or building with a gross floor area of 1,000 sq. ft. or more;
 - 2. Construction of any parking lot and/or parking structure with 20 or more stalls or paved parking area of 5,400 sq. ft. or more; or
 - 3. Construction of or addition to any structure containing residential units.
- B. Supersede. Applicable Highway 99 Design Guidelines shall supersede any development standards and requirements of this chapter that may conflict, unless otherwise specified in this chapter.
- C. Gateways and Prominent Intersections. See Zoning Map to identify development project sites at a gateway or prominent intersection location. Such sites shall be subject to applicable gateway and/or prominent intersection design guidelines identified in the All Districts section of the Lynnwood Citywide Design Guidelines, as adopted by reference in LMC 21.25.145(B)(3). If any portion of a project site is located at a gateway or prominent intersection location, then the entire project shall comply with the applicable Citywide Design Guideline(s).

21.62.400 Development Standards.

- A. Building to Site Relationships. Development shall meet the following standards:

Table 21.62.01

	Development Level		
	1	2	3
	Sites with non-residential development only and less than 2 acres in size.	Sites with non-residential development only, on sites 2 acres or greater in size OR sites of any size with residential development of less than 20 dwelling units/acre	Sites with residential/mixed use development or residential-only development with 20 dwelling units/acre or more of residential development.
Development Standard			
Minimum Setbacks*:			
Public Street:	None.	None.	None.
Interior Property Lines:	None.	None.	None.
Ground Floor Residential Units ⁺ :	-	10 ft.	10 ft.
Minimum Sidewalk Width Along Public Streets:	12 ft.	12 ft.	12 ft.
Maximum Lot Coverage:	25%	35%	None.
Maximum Building Height:	35 ft.	50 ft.	90 feet, not to exceed six stories.
Minimum Dwelling Units/Acre ⁺⁺	NA	NA	20 DU/A
Maximum Floor-Area Ratio	0.5	1.0	3.0

Notes:

- * See LMC 21.62.450 for development adjacent to a residential zone (Transitional Property Lines).
- + Applies to residential projects only; setback is from all public rights-of-way, internal circulation (vehicle, bicycle, pedestrian), parking areas, or access easements. Alternatively, where vision-obscuring glass is installed, the setback may be eliminated.
- ++ The minimum number of residential units to qualify for this Level shall be calculated using the entire project site. Where residential development is part of redevelopment of one or more parcels, this calculation shall be based only on the portion of the parcel(s) being redeveloped. Fractional portions of a unit are “rounded up” for this calculation.

- B. Minimum Size of Structures with Residential Dwelling Units. Residential development is encouraged as part of development of parcels in this zone, but it is not required. Where development of one or more parcels in this zone includes new residential development, the residential development shall comply with the following standard: the minimum height of a structure with residential units shall be three stories above grade.
- C. Parking and Vehicle Circulation. Off-street parking for uses in this zone shall be provided and maintained consistent with the regulations in LMC 21.18 and LMC 21.46.900.D, with the following exceptions:
1. New residential development will have a minimum requirement of 1.0 parking spaces per dwelling unit. Surface parking is limited to a maximum of two (2) parking spaces per dwelling unit; additional parking for residential development shall be located in a parking structure. Tandem parking may be used to meet residential parking requirements, provided both spaces are assigned to the same dwelling.
 2. New multi-story commercial development that is not part of a mixed use development with residential units at a minimum density of 20 units/acre shall provide at least 50% of the parking required for upper stories (any story above the first story) in a parking structure.
 3. Parking for commercial and other non-residential uses in a mixed-use development with residential units shall be provided at a minimum rate of three (3) parking spaces per 1,000 SF of leasable building area (i.e. not including service corridors, ventilation shafts, sprinkler riser rooms or the like) dedicated to commercial or non-residential uses. Parking for institutional uses and hotels/motels shall be provided as set forth in Chapter 21.18. See Chapter 21.18 for allowed reductions in required parking for non-residential uses. Tandem parking is not permitted for non-residential uses.
 4. A parking structure may be located either above or below ground, and may either be attached to a new or existing building or may be freestanding. Parking structures shall meet the requirements on LMC 21.18.710, with the following provisions applying in lieu of LMC 21.18.710.D:
 - a. Setback. Parking structures located along streets which are not “designated side streets” (as defined in the Highway 99 Design Guidelines) shall provide a landscaping area between the structure and the street which is a minimum of 25 ft. wide.
 - b. Design. The parking structure shall comply with the Highway 99 Design Guidelines.
 - c. Vehicle Access. No parking structure entry/exit driveway shall have more than three lanes unless exceptional traffic conditions or congestion require an additional drive lane. In no case shall the number of lanes exceed four.
 - d. Pedestrian Connections. The design of pedestrian connections or pathways from a parking structure to the building(s) for which it provides parking shall clearly delineate and separate the pedestrian way from travel areas for vehicles.
- D. Landscaping at Parking and Circulation Areas. Landscaping shall be provided within surface parking areas with 10 or more parking stalls for the purpose of providing shade, diminishing the visual impacts of large paved areas, and providing stormwater management where feasible. Landscaping for surface parking areas shall be as follows:
1. Residential developments with open parking areas used by or available to all residents (e.g. where parking is provided in a shared parking area, rather than in individual garages) shall provide planting areas at the rate of 20 square feet per parking stall.
 2. Commercial or institutional developments shall provide landscaping at a rate of:
 - a. 20 square feet per parking stall when 10 to 30 parking stalls are provided.

- b. 25 square feet per parking stall when 31 or more parking stalls are provided.
- 3. Trees shall be provided and distributed throughout the parking area at a rate of:
 - a. One tree for every 5 parking stalls for all development or uses except residential or institutional uses.
 - b. One tree for every 10 parking stalls for residential or institutional development or uses.
 - c. For calculating required trees at parking areas for mixed use developments, separate requirements shall be made for parking assigned/allocated to each type of use shall be added and rounded-up to the next whole number of trees.
- 4. The maximum distance between any parking stall and landscaping area shall be no more than 45 feet.
- 5. Permanent curbs or structural barriers shall be provided to protect the plantings from vehicle overhang and curb cuts shall be provided in these barriers to allow surface water to flow into landscaped areas. A minimum setback of two feet for all shrubs and four feet for all trees shall be provided where vehicle overhang extends into landscape areas.
- 6. Additional parking lot landscaping requirements:
 - a. Drought tolerant plants and/or plants native to the Pacific Northwest shall be provided for a minimum of 50% of the landscaping area.
 - b. Shrubs shall be planted at a rate of one per 20 square feet of total landscaped area.
 - c. Landscape areas adjacent to a pedestrian walkway or within the sight triangle at street intersections or access driveways (see LMC 21.10) shall contain plant material chosen to maintain a clear zone between 3 and 8 feet above ground level.
 - d. Planting islands or strips shall have a narrow dimension of no less than five feet.
 - e. All trees shall be chosen from the City-approved tree list. Trees within landscaped areas and street trees shall be chosen to consider existing and proposed utilities, site lighting, signage, adjacent trees, natural features, tree root growth, solar access, planting area width, and overall height at maturity.
 - f. Groundcover shall provide total coverage of landscaped areas within five years of planting. No more than 5% of the landscaped area shall be covered with river rock or other non-living materials, unless the river rock or other non-living material is a part of a storm drainage system.
 - g. For projects that redevelop more than 50% of the area of a development site, automatic irrigation shall be provided for all new landscaping, unless water for irrigation is provided by a Low Impact Design system.
 - h. A landscape maintenance plan shall be provided. The plan shall include, at a minimum, on-going tasks and schedules for all landscape areas, such as litter pick-up, mowing turf, tree and shrub pruning, weeding planting beds, removing noxious weeds, sweeping, replacement of dead or dying plant material, irrigation repair/adjustment, and trimming of hedges.
- E. Non-residential Open Space.
 - 1. New non-residential development subject to Project Design Review under this Chapter and with at least 20 units/acre of residential development shall include on-site pedestrian-oriented open space at least equal to 1 percent of the lot area plus 1 percent of new non-residential floor area. Where pedestrian-oriented facades are required by the Design Guidelines, the façade(s) shall be oriented towards the required open area. These requirements are in addition to the open space required for residential units, if any. The open space may be in the form of wider sidewalks (beyond the minimum) café seating areas, gardens, plazas or play areas.

2. New non-residential development subject to Project Design Review under this Chapter and not including residential development of 20 units/acre shall include on-site pedestrian-oriented open space at least equal to 2 percent of the lot area plus 2 percent of new non-residential floor area. Where pedestrian-oriented facades are required by the Design Guidelines, the façade(s) shall be oriented towards the required open area. These requirements are in addition to the open space required for residential units, if any. The open space may be in the form of wider sidewalks (beyond the minimum) café seating areas, gardens, plazas or play areas.
- F. Residential Open Space. All developments with multiple family dwelling units shall provide recreational space (for use by residents of the development) equal to at least 10 percent of the building living area (not counting corridors, lobbies, storage, service space, and similar service areas), as follows (in mixed use developments, this requirement is in addition to the Non-residential Open Space required under Subsection E, above):
1. Common open space may be used for all of the required open space. Common open space includes landscaped courtyards or decks, gardens with pathways, children's play areas, or other multi-purpose green spaces. In addition:
 - a. Minimum required setback areas shall not count towards the open space requirement;
 - b. Minimum required landscaping areas shall not count towards the open space requirement;
 - c. Common open spaces shall be a minimum size of 1,000 sq. ft. each with a minimum dimension of 20 feet on all sides except where the Community Development Director determines that the proposed space is functional for appropriate active or passive recreational uses.
 2. Individual balconies and patios may be used to meet up to 50 percent of the required open space. To qualify as open space, balconies/patios must be at least 35 square feet with no dimension less than five (5) feet.
 3. Space at rooftop decks may count for up to 50 percent of the required open space, provided:
 - a. Space shall be accessible (ADA) to/from all dwelling units.
 - b. Space shall provide amenities such as seating areas, landscaping, and/or other features that encourage recreational use;
 - c. Space shall feature a maximum of 75% hard surfacing appropriate to encourage resident use;
 - d. Space shall incorporate features that provide for the safety of residents, such as railings, enclosures and appropriate lighting levels. Lighting shall be of pedestrian scale and shall not project past the roofline to neighboring properties.
 4. Indoor recreational areas may count for up to 50 percent of the required open space only in mixed-use buildings where other forms of open space are less feasible. Indoor areas shall be designed specifically to serve interior recreational functions.
- G. Fences and Retaining Walls
1. Permitted Fences, except as provided below.
 - a. Fences up to three (3) feet in height are permitted.
 - b. Fences up to six (6) feet in height are allowed along side and rear property lines (provided they are not parallel to a public right-of-way) and to enclose allowed service areas, storage areas, and other spaces.
 2. Prohibited Fences.

- a. Chain-link fences.
 - b. Electric fences.
 - c. Barbed wire and razor fencing.
 - d. Wood fences (manufactured wood products are acceptable).
 - e. Fencing shall not be installed along principal, collector, or minor arterials, except where the property owner or applicant demonstrates the fence is necessary for security purposes. Such fences shall not diminish the pedestrian qualities of the street and shall not encroach into the "sight triangle" as required by Chapter 21.10.
3. Retaining Wall Standards. For retaining walls that are visible from a public right-of-way or a residentially-zoned property, no above-ground portion of a retaining wall shall be taller than four (4) feet in height.
- H. Service Areas.
1. Exterior service areas shall not be located within 30 feet of a single- or multiple-family residential-zoned property or of an existing building containing residential units. Service areas include but are not limited to: loading docks, trash dumpsters, compactors, refuse and recycling areas, and mechanical equipment areas.
 2. All external trash, recycling, and storage areas are required to be enclosed with a solid structure with a minimum height of seven feet and a roof. However, if the area is not visible from an adjacent property or public right-of-way, the enclosure does not require a roof. Enclosures shall be constructed of materials that match or complement the exterior materials of primary building(s).
- I. Street Trees. Street trees shall be provided every 30 feet or less on center or spaced as directed by City staff. All trees shall be chosen from the City-approved tree list and shall have a minimum 2-inch caliper at planting.

21.62.450 Treatment at Transitional Property Lines

Where a property zoned Highway 99 Mixed Use abuts a property zoned residential, the following regulations shall apply:

- A. Setback and building height adjacent to a multi-family residential zone:
 1. For the portion of the property line adjacent to a multi-family zone, the setback shall be a minimum of 15 feet.
 2. Portions of buildings within 30 feet of an adjacent multi-family zone shall have a maximum height of 35 feet.
 3. Portions of a building more than 30 feet and less than 60 feet from a multi-family zone shall have a maximum building height of 50 feet.
- B. Setback and building height adjacent to a single-family residential zone:
 1. For the portion of the property that has a property line adjacent to a single family zone, the setback shall be a minimum of 20 feet.
 2. Portions of buildings within 30 feet of a single-family zone shall have a maximum building height of 25 feet.
 3. Portions of a building more than 30 feet and less that 60 feet from a single family zone shall have a maximum building height of 45 feet.
 4. Roof decks designed for human activities and balconies overlooking single-family-zones shall be set back from the property line at least 30 feet.
- C. Landscaping Treatment.

1. Planting and Fencing. The purpose of this landscaping and fencing is to provide a sight and sound barrier between zones with a high degree of incompatibility.
 - a. Where property zoned Highway 99 Mixed Use is adjacent to a property zoned Single-Family Residential, the planting strip shall be at least 20 feet in width and shall consist of two rows of evergreen conifer trees. The trees shall be staggered and spaced a maximum of 10 feet on center, so as to form an effective visual barrier within five years. The minimum tree height at the time of planting shall be six feet. The planting strip and a permanent six-foot tall site-screening fence shall be placed at the property line. Except that, with the concurrence of all adjoining property owners, an alternative planting treatment may be approved by the Community Development Director.
 - b. Where a property zoned Highway 99 Mixed Use is adjacent to a property zoned Multi-Family Residential, the planting strip shall be at least 10 feet in width and shall consist of either of the following two options:
 - i. One row of evergreen conifer trees, spaced a maximum of 10 feet on center. Minimum tree height at the time of planting shall be six feet, the remainder of the planting strip shall be promptly planted with low evergreen plantings which will mature to a total groundcover within five years; or
 - ii. A site-screening evergreen hedge that provides a sight, sound, and psychological barrier. The spacing of plants shall be such that they will form a dense hedge within five years. Minimum plant height at the time of planting shall be four feet. The planting strip and a permanent six-foot tall site-screening fence shall be placed at the property line.
 2. Signed Plans. All landscaping plans shall bear the seal of a registered landscape architect or signature of a Certified Professional Horticulturalist (CPH) and be drawn to a scale no less than one inch to 20 feet. The landscape architect or CPH shall certify that the species of plants are fast-growing and that the design of the plan will fulfill city code requirements within five years.
 3. Installation Prior to Occupancy. All landscaping that fulfills the city code requirements shall be installed prior to occupancy of any structure located on the same site. If, due to extreme weather conditions or some unforeseen emergency, all required landscaping cannot be installed prior to occupancy, then a cash deposit or guarantee account with the city shall be provided as financial security to guarantee installation of the remaining landscaping, as provided in LMC 21.04.920.
 4. Fencing. For the purposes of this section a "site-screening fence" means a solid one-inch-thick board (nominal dimensional standards) fence. One made of brick, rock or masonry materials may be substituted for a board fence. Where a fence is required by the above standards, no fence shall be required where a fence already exists which meets the intent of this section. However, if the existing fence is ever removed, demolished or partially destroyed, then the owner of the property first being required by the section to provide the necessary fence will be responsible for replacing the fence.

In those cases where the slope of the land is such that the location of a fence required by the above standards is impractical or ineffective in satisfying the intent of this section, the community development director may permit a location which more adequately satisfies the intent of this section.
- D. Maintenance. See LMC 21.04.310.

21.62.500 Swift Station off-street parking and landscaping.

In calculating and applying the parking stall and landscaping requirements of this title, the parking stalls and landscaping that have been or are replaced by a transit station and related improvements of the Snohomish County Public Transportation Benefit Area (dba Community Transit), also known as a Swift BRT station, pursuant to the development agreement between the City and Community Transit dated August 20, 2008, or any subsequent agreements, shall be included within the calculation and application of such requirements. The replacement of a portion of a parking stall shall be deemed to be a replacement of the entire parking stall. In any application for a building or other permit for construction of such transit station and related improvements, Community Transit shall provide photographs of the parking stalls and landscaping that will be replaced by the transit station and related improvements, or such other evidence of the parking stalls and landscaping that is acceptable to the Director.

21.62.600 Nonconforming structures, sites and uses.

It is expected that existing development and uses will remain in the nodes for a substantial amount of time, even as some properties in the nodes are redeveloped. However, it is necessary to ensure that all forms of development contribute positively to the character and quality of the nodes. Changes to nonconforming conditions shall not increase the degree of nonconformity, but rather move the site and its uses and buildings towards greater conformity. Given the location and configuration of current buildings, application of all zoning regulations and design guidelines may not be possible or practical; however, every effort should be made to comply with such standards for the portions of sites and buildings in proximity to the alterations being made. This section supersedes Chapter 21.12 LMC.

- A. Prohibited Uses. Any prohibited uses legally existing at the time of the adoption of the ordinance codified in this chapter shall be considered "legal nonconforming uses." Such uses are not permitted to expand or to relocate anywhere in either of these zones. Exterior landscaping, facade improvements, or interior upgrades are permitted.
- B. Nonconforming Sites. Certain types of minor changes to existing site development would not trigger compliance with the development regulations and design guidelines for this zone, such as re-striping of stalls, new or altered signage, lighting or renovation of landscaping. Any other exterior renovation that is subject to project design review approval shall incorporate site design features from the design guidelines that bring the site more into compliance with the guidelines. Compliance should be localized to the area being altered and the incorporated site design features shall be directly proportionate to the value or size of the proposed improvements.
- C. Nonconforming Buildings. There are many buildings and other structures existing at the adoption of the ordinance codified in this chapter that do not comply with the zoning regulations and design guidelines for this zone. Expansion of building footprints by 1,000 sq. ft. or more or renovation over 10% of the assessed or appraised value of the buildings on site, whichever value is greater, shall trigger compliance with both these regulations and site and building design guidelines. Compliance should be localized to the area of the building being altered and shall be directly proportionate to the value or size of the proposed improvements, whichever is greater. Particular emphasis should be given to the provision of pedestrian amenities oriented towards streets; e.g., if a building is expanded towards the street, elements such as parking lot landscaping and pedestrian connections to the sidewalk are expected to be accomplished.

Chapter 21.16 SIGNS

21.16.340 Signs in the Highway 99 Mixed Use Zone

Only the following signs are permitted in the Highway 99 Mixed Use Zone:

- A. General Regulations
 - 1. Back-lit signs are prohibited; signs with individual backlit letters are acceptable.
 - 2. Neon signs are permitted.
 - 3. External sign lighting is permitted. The lighting shall not be visible from adjacent residentially-zoned properties and shall not project towards the night sky or past the sign.
 - 4. For residential real estate signs, see LMC 21.16.290.D.
 - 5. For Commercial Incidental signs, Internal Information signs, Portable Business signs, Temporary Commercial Event signs, Real Estate signs, Construction signs and variances for commercial signs, see LMC 21.16.310.
- B. Pole Sign Standards:
 - 1. One pole sign shall be permitted for a single and multi-tenant development with a gross building floor area of 50,000 sf or more. Pole signs shall not be permitted for single and multi-tenant developments with a gross building floor area less than 50,000 sf.
 - 2. Maximum height of 15 feet
 - 3. Minimum sign set back of 25 feet
 - 4. Maximum sign area is 75 square feet
 - 5. Comply with design criteria in LMC 21.16.310.A.1.c.iii.
- C. Monument Sign Standards. Monument signs shall conform to the requirements of Table 21.16.01 below.

Table 21.16.01. Monument Sign Standards

Requirements ^{a, b, c}	Single and Multi-Tenant Developments		
	(less than 25,000 sf floor area)	(25,000-50,000 sf floor area)	(more than 50,000 sf floor area)
Maximum Height	4 ft.	6 ft.	8 ft.
Maximum Sign Area	20 sf	30 sf	40 sf
Minimum Setback from Front Property Lines ^d	5 ft. plus 1.5 ft. per additional foot in height above 3.5 ft.		
Minimum Setback – Side ^d	5 ft.		
Landscaping ^e	2 ft. of landscaping surrounding the base of the sign		
Minimum Separation ^f	250 ft. between signs		

Notes for Table:

- a. Monument signs shall include the address number on the face of the sign. Address numbers shall meet Fire Department requirements and shall not be counted towards the sign area.
- b. The sign shall consist of materials and colors that minimize reflection capabilities and are consistent and complimentary to the architecture of the primary building on site. Materials shall be easily maintained and shall retain their shape, color, texture and appearance over time.
- c. The sign shall comply with the design criteria in Figure 5 of LMC Chapter 21.16.

- d. Signs shall not be located within a triangular area at street intersection or street and driveway intersections formed by two points measuring 20 feet back from the point where the two street right-of-way lines merge or a street right-of-way line and edge of driveway merge and extending a line that connects these two points to complete the triangle (see Figure 4 of LMC Chapter 21.16).
- e. Landscaping shall include a decorative combination of groundcover and shrubs to provide seasonal interest in the area surrounding the base of the sign. Landscaping shall be well maintained at all times of the year. The required landscaping area shall be protected by a raised curb if not surrounded by additional landscaping.
- f. In general, an individual building, development, or complex may not display more than one monument sign per street frontage. However, additional monument signs can be used on the site as long as they advertise a different business onsite and can be placed at least 250 feet from the first sign along applicable street frontages. No two signs shall be closer than 250 linear feet.

<end of table notes>

D. Wall Sign Standards

- 1. Single story building:
 - a. Business tenants with building frontage: 1 sq. ft. of signage for each linear foot of building frontage, provided that each tenant is allowed a minimum of 40 sq. ft. of signage.
 - b. Business tenants without building frontage: 1/2 square foot for each lineal foot of building façade, not to exceed 100 square feet maximum.
 - c. Allowable sign area may not be transferred from one façade and/or building frontage to another.
- 2. Multi-story building:
 - a. Ground-floor business tenants with a direct exterior entrance into the business (not a lobby) are permitted 1 sq. ft. of signage for each linear foot of building frontage of the applicable tenant space, provided that each tenant is allowed a minimum of 40 sq. ft. of signage. This signage shall be located at their exterior entry on the ground floor.
 - b. Other business tenants with building frontage. The total exterior wall signage allowed shall be a maximum of 1 sq. ft. of signage for each linear foot of building, up to a maximum of 250 sq. ft. per building frontage (total for all business tenants). This signage may identify either the building, a major tenant of the building, or individual tenants that do not have a direct exterior entrance into their tenant space (or a combination of all three), as determined and allocated by the building owner. This signage may be located only on either the ground floor or the top floor (below the cornice or edge of the roof) of the building (or both), as determined by the owner.
 - c. Business tenants without building frontage. The total exterior wall signage allowed shall be a maximum of ½ sq. ft. for each lineal foot of building façade which does not meet the definition of building frontage, up to a maximum of 100 sq. ft (total for all business tenants). The property owner shall allocate this signage among tenants without building frontage, including tenant spaces without wall space along the exterior façade. This signage may located only at the ground floor or the top floor of the building (or both), as determined by the owner.
 - d. Allowable sign area may not be transferred from one façade and/or building frontage to another.

- e. In no case shall allowable sign area be permitted on intermediate floors (above the first story or below the top story).
- 3. Residential Development or Institutional Identification Signs. Wall signs for multi-family development identification are permitted. Signs at ground-floor public residential or institutional entrances shall have a maximum size of 20 sq. ft. per such entrance. Additional signs may be permitted on the top floor (below the cornice or roof edge), provided such signs shall be allocated as part of the total allowable sign area per facade by the owner (see above).
- 4. Home Occupation Signs. Home Occupations may be allocated sign area as part of an internal or external sign directory; no other signage is permitted.
- 5. Maximum Height: Wall signs may not extend above the building parapet, soffit, the eave line or the roof of the building.
- 6. Mounting: Building signs should be mounted plumb with the building, with a maximum protrusion of 1-foot unless the sign incorporates sculptural elements or architectural devices. The sign frame shall be concealed or integrated into the building's architectural character in terms of form, color, and materials.
- E. Projecting, Marquee and Awning Signs. Projecting, marquee and awning signs shall meet the requirements of LMC 21.16.310(B)(2) in addition to the following:
 - 1. The sign shall not project more than 5 feet from the building, unless the sign is a part of a permanent marquee or awning over the sidewalk. Vertically oriented signs shall not project more than 3 feet from the building. Signs shall not project into the public right-of-way.
 - 2. Sign area shall be counted as part of the allocation for wall signs, above.
 - 3. Signs shall not extend above the building parapet, soffit, eave line or the roof of the building, except for theaters.
 - 4. Marquee and awning signs shall not cover more than 70% of the applicable storefront or awning.
- F. Blade Signs. Blade signs are small signs with faces perpendicular to the building façade. They generally are mounted directly to the building façade or hung below a canopy or projecting weather protection. Blade signs are generally oriented to face pedestrians walking down the fronting sidewalk. Blade signs meeting the following conditions are allowed for commercial uses:
 - 1. Projection: Blade signs may project up to 3 feet. Bracket signs shall have 1-foot minimum between the sign and the outer edge of the marquee, awning, or canopy and between the sign and the building facade.
 - 2. Clearance: Blade/bracket signs shall maintain a minimum clearance of 8 feet between the walkway and the bottom of the sign.
 - 3. Dimensions: Blade signs shall not exceed 6 square feet in area. Bracket signs shall not exceed 2 feet in height.
 - 4. Mounting: Blade signs must avoid covering or modifying windows or other architectural feature.
- G. Prohibited Signs. The following signs are specifically prohibited:
 - 1. Signs employing moving or flashing lights.
 - 2. Signs employing exposed electrical conduits.
 - 3. Visible ballast boxes or other equipment.
 - 4. Roof-mounted signs.
- H. Other Signs – See LMC 21.16.310 C-J.

Chapter 21.40 USE ZONES AND ZONING MAP

21.40.100 Use Zones Established

For the purpose of this title, the city is divided into use zones as provided hereafter:

Essential Uses	Symbols	Description
A. Single-Family Residential Zones.		
Single-Family Residences	RS-8	Low-Density Single-Family Residential
	RS-7	Medium-Density Single-Family Residential
	RS-4	High-Density Single-Family Residential
B. Multiple-Family Zones.		
Multiple-Family Residences	RML	Low-Density Multiple-Family Residential
	RMM	Medium-Density Multiple-Family Residential
	RMH	High-Density Multiple-Family Residential
C. Commercial Zones.		
Retail, Offices and Services	B-4	Restricted Business
	B-3	Neighborhood Business
	B-2	Limited Business
	PCD	Planned Commercial Development
	B-1	Community Business
	MU	Mixed Use/Business
	CC-W	City Center – West End
	CC-N	City Center – North End
	CC-C	City Center – Core
	CG	General Commercial
	PRC	Planned Regional Shopping Center
	CDM	College District Mixed Use
	<u>HMU</u>	<u>Highway 99 Mixed Use</u>
D. Industrial Zones.		
Employment Uses	BTP	Business and Technical Park(s)
	LI	Light Industrial
E. Public and Institutional Zones.		
Institutional Uses	P-1	Public and Semi-Public Uses.

21.40.900 Order of Restrictiveness

The City of Lynnwood is divided into ~~24~~ 22 use zones which shall be known, in the order of restrictiveness, beginning with the most restrictive, as:

Upon deletion of the Suburban Residential Zone (RS-12), the properties in the zone are to be automatically placed in the adjacent Residential Zone (RS-8).

RS-8	Low-Density Single-Family Residential
RS-7	Medium-Density Single-Family Residential
RS-4	High-Density Single-Family Residential
P-1	Public and Semi-Public Use
RML	Low-Density Multiple-Family
RMM	Medium-Density Multiple-Family

RMH	High-Density Multiple-Family Upon deletion of the High Rise Multiple-Family Zone (RMHR), the properties in the zone are to be automatically placed in the High Density Multiple-Family Zone (RMH).
B-4	Restricted Business
B-2	Limited Business Upon deletion of the Highway Services Zone (C-2), the properties in the zone are to be automatically placed in the adjacent Planned Commercial Development Zone (PCD).
B-3	Neighborhood Business
PCD	Planned Commercial Development
B-1	Community Business
CDM	College District Mixed Use
MU	Mixed Use/Business
<u>HMU</u>	<u>Highway 99 Mixed Use</u>
CC-W	City Center – West End
CC-N	City Center – North End
CC-C	City Center – Core
CG	General Commercial
PRC	Planned Regional Shopping Center
BTP	Business and Technical Park
LI	Light Industrial

Affidavit of Publication

STATE OF WASHINGTON,
COUNTY OF SNOHOMISH

}
S.S.

LYNNWOOD
WASHINGTON

SUMMARY OF ORDINANCE NO. 2909
of the City of Lynnwood, Washington

On the 12th day of September, 2011, the City Council of the City of Lynnwood, Washington, passed Ordinance No. 2909. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, AMENDING SECTIONS 17.02.040, 17.02.050, 17.02.090, AND 21.25.120 OF THE LYNNWOOD MUNICIPAL CODE RELATING TO PERMIT PROCESSING BY CHANGING THE DESIGNATION OF THE SEPARATE RESPONSIBLE OFFICIAL, PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

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

DATED this _____ day of September, 2011.

Lorenzo Hines Jr.
Finance Director

Published: September 29, 2011.

The undersigned, being first duly sworn on oath deposes and says that she is Principal Clerk of THE HERALD, a daily newspaper printed and published in the City of Everett, County of Snohomish, and State of Washington; that said newspaper is a newspaper of general circulation in said County and State; that said newspaper has been approved as a legal newspaper by order of the Superior Court of Snohomish County and that the notice

Summary of Ordinance

No. 2909

City of Lynnwood

a printed copy of which is hereunto attached, was published in said newspaper proper and not in supplement form, in the regular and entire edition of said paper on the following days and times, namely:

September 29, 2011

and that said newspaper was regularly distributed to its subscribers during all of said period.

Jody Stahl

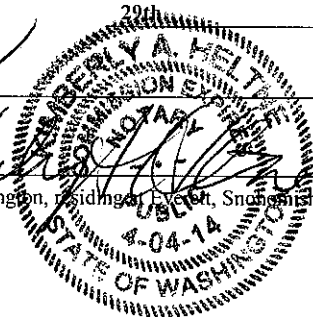
Principal Clerk

Subscribed and sworn to before me this _____

day of September, 2011

[Signature]

Notary Public in and for the State of Washington, residing in Everett, Snohomish County.




CERTIFICATE

I, the undersigned, Lorenzo Hines Jr., the duly appointed 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. 2909 of the City of Lynnwood, Washington, entitled as follows:

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, AMENDING SECTIONS 17.02.040, 17.02.050, 17.02.090, AND 21.25.120 OF THE LYNNWOOD MUNICIPAL CODE RELATING TO PERMIT PROCESSING BY CHANGING THE DESIGNATION OF THE SEPA RESPONSIBLE OFFICIAL; PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

That said ordinance was passed by the Council 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 March 2, 2012.



Lorenzo Hines Jr.,
City Clerk of the City of Lynnwood,
Washington