



ORDINANCE NO. 3256

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, RELATING TO THE CITY'S DEVELOPMENT REGULATIONS AND THE COMMUNITY DEVELOPMENT DEPARTMENT; ADDING NEW SECTION 21.12.500 TO THE LYNNWOOD MUNICIPAL CODE; AMENDING 19.40.010, 21.16.250, 17.02.195 OF THE LYNNWOOD MUNICIPAL CODE; 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 appropriate to amend the City's land use and development regulations in order to improve efficiency and draft effective application of legislation enacted by Ordinance by the City Council; and

WHEREAS, on the 30th day of January, 2017, 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 14th day of February, 2017, the City of Lynnwood SEPA Responsible Official issued a Determination of Non-Significance (DNS) on the proposal; and

WHEREAS, on the 23rd day of March, 2017, the Lynnwood Planning Commission held a public hearing on proposed amendments to the Lynnwood Municipal Code (LMC) as provided in this Ordinance, and all persons wishing to be heard were heard; 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

44 WHEREAS, on the 8th day of May, 2017, the Lynnwood City Council held a public hearing
45 on proposed amendments to the Lynnwood Municipal Code provided by this Ordinance, and all
46 persons wishing to be heard were heard; and

47
48 WHEREAS, the City Council finds the provisions of this Ordinance to be in the best interest
49 of the health, safety and welfare of the community; now, therefore

50
51
52 THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:
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54 **Section 1. Findings.** Upon consideration of the provisions of this Ordinance, the City Council
55 finds that the amendments contained herein are: a) consistent with the comprehensive plan; and
56 b) substantially related to the public health, safety, or welfare; and c) not contrary to the best
57 interest of the citizens and property owners of the city of Lynnwood.

58
59 **Section 2. Amendment.** LMC 17.02.195 is hereby amended to read as follows:
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61 **17.02.195 Appeals (WAC 173-806-170).**

- 62 A. The city establishes the following administrative appeal procedures under RCW
63 43.21C.075 (as amended by Chapter 347, Laws of 1995 (ESHB 1724)), WAC 197-11-
64 680 and RCW 43.21C.060. These administrative appeal procedures supersede
65 procedures for administrative appeals provided for in Chapter 1.35 LMC.
- 66 1. Any agency or person may appeal the city's procedural compliance with Chapter
67 197-11 WAC for issuance of the following:
 - 68 a. Determination of nonsignificance;
 - 69 b. Mitigated determination of nonsignificance;
 - 70 c. Adequacy of an FEIS.
 - 71 2. A determination of significance (DS) shall not be subject to appeal.
 - 72 3. 2. Appeals, together with the appeal fee established in Chapter 3.104 of this code,
73 must be filed within the following timelines:
 - 74 a. An appeal of a determination of nonsignificance (DNS) or mitigated DNS must
75 be filed in writing with the community development department within 14
76 calendar days of the date that the DNS or mitigated DNS becomes final.
 - 77 ~~b. A determination of significance (DS) shall not be subject to appeal.~~
 - 78 b.e. Appeals of a final EIS must be filed in writing with the community development
79 department within 14 days of the issuance of the final EIS by the city.
 - 80 4. ~~3.~~ The appeal of a determination under SEPA shall be considered with the decision
81 on the underlying governmental action in the following manner:
 - 82 a. If the initial decision on the underlying governmental action is made by the
83 hearing examiner (e.g., conditional use permit), the SEPA appeal shall be heard
84 by the hearing examiner at the same time as the public hearing on the
85 underlying action. The hearing examiner shall render a decision on both the
86 SEPA appeal and the underlying action.

- 87 b. If the initial decision on the underlying governmental action is made by a city
 88 employee or official with a right of appeal to the hearing examiner, the SEPA
 89 appeal shall be heard by the examiner at the same time as the hearing on the
 90 appeal of the underlying action, if the underlying action is appealed. The
 91 hearing examiner shall render a decision on both appeals. In cases where the
 92 underlying action is not appealed, the hearing examiner shall conduct a
 93 public hearing and render the decision on the SEPA appeal; ~~and any time~~
 94 ~~frame for filing an action under the Land Use Petition Act (LUPA) for the~~
 95 ~~underlying action shall be suspended pending conclusion of the city's SEPA~~
 96 ~~appeal process.~~
- 97 c. If the initial decision on the underlying governmental action is made by the
 98 city council after a public hearing, the SEPA appeal shall be heard and decided
 99 by the city council at the same time.
- 100 d. If the proposal is a non-project action (i.e., legislative or other actions not
 101 meeting the definition of a project permit pursuant to LMC 1.35.005, Project
 102 permit – Definition), then the hearing examiner shall render a decision on
 103 the SEPA appeal (prior to the planning commission or city council public
 104 hearing).
- 105 A. If the City is the project proponent of the underlying action or is funding the
 106 project, is the SEPA lead agency for the project, and exercises its right to conduct
 107 review under SEPA, including any appeals of the City's procedural determinations
 108 under SEPA, before the City submits an application for any project permit for the
 109 project or action, the hearing examiner shall hear and render a decision on the
 110 SEPA appeal.
- 111 B. The decision on a SEPA appeal shall be final, with no additional administrative
 112 appeal.
- 113 C. As provided in RCW [43.21C.075\(3\)\(d\)](#), the environmental determination of the
 114 responsible official shall be entitled to substantial weight.
- 115 D. The appellant shall have the burden of establishing that the environmental
 116 determination is clearly erroneous.
- 117 E. Only one appeal of an environmental determination made by the responsible
 118 official shall be allowed on a proposal. If more than one person files an appeal of
 119 an environmental determination on a proposal, such appeals shall be
 120 consolidated.
- 121 F. The city shall give official notice under WAC 197-11-680(5) whenever it issues a
 122 permit or approval for which a statute or ordinance establishes a time limit for
 123 commencing judicial appeal.

124 Note: see also LMC 17.02.200(E).

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 126 **Section 3. Amendment.** LMC 19.40.010 is hereby amended to read as follows:

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 128 **19.40.010 Purpose and applicability.**

129 The purpose of this chapter is to establish the fee simple unit lot subdivision procedure
130 for the following limited circumstances only:

- 131
- 132 A. To divide land for townhouses where all of the following conditions apply:
- 133 1. Underlying zoning standards allow multiple townhouse units on a single lot or
134 parcel without subdividing the land; and
- 135 2. Fee simple unit lot subdivisions are specified as a permissible type of development
136 in the underlying zoning district wherever townhouse development is a permitted
137 use, including the ~~B-3~~ NC zoning designation.
- 138

139 **Section 4. New Section.** LMC 21.12.500 is hereby added to the Lynnwood Municipal Code to
140 read as follows:

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142 **21.12.500 Nonconformance Created by Government Action**

143 Where a lot, tract, or parcel is occupied by a lawful use or structure, and where the
144 acquisition of a portion of the site for the purpose of public right-of-way by exercise of
145 the power of eminent domain or by purchase by the City, creates noncompliance of the
146 use, structure or site regarding any requirement of this code, such use or structure shall
147 be deemed lawful and permitted and subject to regulation as a nonconforming use or
148 structure under this section.

149

150 **Section 5. Amendment.** LMC 21.16.250 is hereby amended to read as follows:

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152 **21.16.250 Nonconforming signs.**

153 Existing nonconforming signs shall be subject to the following regulations:

- 154 A. Any existing nonconforming sign shall be made conforming if Level 2 or Level 3
155 improvements per LMC [21.12.400](#)(B) and (C) are made to building(s) on
156 nonconforming sites occupied by a conforming use, except if allowed to remain
157 pursuant to state law.
- 158 B. Any existing nonconforming sign that has been abandoned for a continuous period of
159 six months or more must be removed or made conforming before it can be used by a
160 new business, except if allowed to remain pursuant to state law.
- 161 C. When any new sign for which a sign permit is required by this chapter is proposed to
162 be installed on a business site where a nonconforming sign or signs are located, one
163 nonconforming sign of similar type as the proposed sign shall be removed or brought
164 into conformance with this chapter for each new sign installed on a business site. For
165 example, one existing nonconforming freestanding sign would need to be removed or
166 brought into conformance for each new freestanding sign installed on a particular
167 business site, except if allowed to remain pursuant to state law.
- 168 D. Portable signs located within an area being annexed to the city that do not conform
169 with the requirements of this chapter shall be removed within six months of the
170 effective date of annexation.

- 171 E. Whenever any modification is to be made to the structure, frame or support of any
172 nonconforming sign, such nonconforming sign shall be removed or brought into
173 conformance with this chapter. Adding a new sign face to a nonconforming sign that
174 does not modify the shape, size or any structural element of a nonconforming sign
175 shall be allowed without a sign permit. This provision does not apply to regular
176 maintenance that does not involve replacement of external elements.
- 177 F. Whenever a building facade that supports a nonconforming wall, nonrigid awning or
178 projecting signs is remodeled, all such nonconforming signs located on the facade
179 being remodeled shall be brought into conformance with this chapter.
- 180 G. Any nonconforming sign that has been designated historically or culturally significant
181 or is placed on a structure that has been designated historically or culturally significant
182 shall not be required to be removed.
- 183 H. Existing signs that are nonconforming may be relocated on the same parcel if
184 displaced by government action, provided that setback standards shall be met to the
185 extent feasible. If an existing conforming or nonconforming sign would have setbacks
186 reduced below applicable standards as a result of government action, the sign may be
187 relocated on the same parcel to reduce the setback nonconformity to the extent
188 feasible. Signs that are relocated under this paragraph H will not be altered in size,
189 shape, or height and shall be relocated at the expense of the government entity.

190
191 **Section 6. Severability.** If any section, sentence, clause or phrase of this Ordinance should be
192 held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or
193 unconstitutionality shall not affect the validity or constitutionality of any other section, sentence,
194 clause or phrase of this Ordinance.

195
196 **Section 7. Effective Date.** This Ordinance or a summary thereof consisting of the title shall be
197 published in the official newspaper of the City, and shall take effect and be in full force five (5)
198 days after publication.

199
200 PASSED BY THE CITY COUNCIL, the 8th day of May, 2017.

201
202 APPROVED:

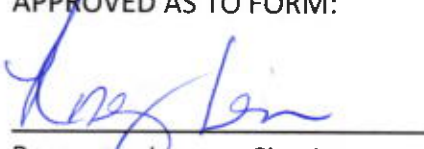
203 

204 _____
205 Nicola Smith, Mayor

206
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208 ATTEST/AUTHENTICATED:

209 
210 _____
211 Sonja Springer, Finance Director/City Clerk

209 APPROVED AS TO FORM:

210 
211 _____
212 Rosemary Larson, City Attorney

214	FILED WITH ADMINISTRATIVE SERVICES:	05/10/2017
215	PASSED BY THE CITY COUNCIL:	05/08/2017
216	PUBLISHED:	05/11/2017
217	EFFECTIVE DATE:	05/16/2017
218	ORDINANCE NUMBER:	3256
219		
220		



On the, 8th day of May, 2017 the City Council of the City of Lynnwood, Washington, passed ordinance 3256. A summary of the content of this ordinance, consisting of the title, provides as follows:

ORDINANCE NO. 3256

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON RELATING TO THE CITY'S DEVELOPMENT REGULATIONS, AND THE COMMUNITY DEVELOPMENT DEPARTMENT; ADDING NEW SECTION 21.12.500 TO THE LYNNWOOD MUNICIPAL CODE; AMENDING 19.40.010, 21.16.250, 17.02.195 OF THE LYNNWOOD MUNICIPAL CODE; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

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

DATED this 11th day of May, 2017.

A handwritten signature in blue ink that reads 'D. 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 EDH757213 ORDINANCE 3256, 3257 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 05/11/2017 and ending on 05/11/2017 and that said newspaper was regularly distributed to its subscribers during all of said period.

The amount of the fee for such publication is \$41.50.

Kathleen Landis

Subscribed and sworn before me on this

11 day of May,
2017.

Debra Ann Grigg

Notary Public in and for the State of Washington.

City of Lynnwood - LEGAL ADS | 14127890
DEBBIE KARBER

LYNNWOOD
WASHINGTON

CITY OF LYNNWOOD

On the, 8th day of May, 2017 the City Council of the City of Lynnwood, Washington, passed ordinances 3256 and 3257. A summary of the content of these ordinances, consisting of the title, provides as follows:

ORDINANCE NO. 3256
AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON RELATING TO THE CITY'S DEVELOPMENT REGULATIONS, AND THE COMMUNITY DEVELOPMENT DEPARTMENT; ADDING NEW SECTION 21.12.500 TO THE LYNNWOOD MUNICIPAL CODE; AMENDING 19.40.010, 21.16.250, 17.02.195 OF THE LYNNWOOD MUNICIPAL CODE; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

ORDINANCE NO. 3257
AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, RELATING TO COMMUNITY DEVELOPMENT DEPARTMENT; AMENDING CHAPTER 2.23 OF THE LYNNWOOD MUNICIPAL CODE; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

The full text of these ordinances will be mailed upon request.
DATED this 11th day of May, 2017.
Debbie Karber, Deputy City Clerk
Published: May 11, 2017. EDH757213

DEBRA ANN GRIGG
Notary Public
State of Washington
My Commission Expires
October 31, 2017



LYNNWOOD
WASHINGTON

CERTIFICATE

I, the undersigned, Debra Karber, the duly appointed Deputy 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. 3256 of the City of Lynnwood, Washington, entitled as follows:

ORDINANCE NO. 3256

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON RELATING TO THE CITY'S DEVELOPMENT REGULATIONS, AND THE COMMUNITY DEVELOPMENT DEPARTMENT; ADDING NEW SECTION 21.12.500 TO THE LYNNWOOD MUNICIPAL CODE; AMENDING 19.40.010, 21.16.250, 17.02.195 OF THE LYNNWOOD MUNICIPAL CODE; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

That said ordinance was passed by the Council on May 8, 2017 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 May 11, 2017.

Debbie Karber, Deputy City Clerk