



ORDINANCE NO. 3286

AN ORDINANCE AMENDING THE CONNECTION CHARGES FOR SANITARY SEWER SERVICES TO NEW DEVELOPMENT AND REDEVELOPMENT OF EXISTING DEVELOPED PROPERTIES TO IMPLEMENT THE ADOPTED LYNNWOOD SEWER SYSTEM PLAN, AND TO PROVIDE NECESSARY REVENUES TO FUND CAPITAL PROJECTS OF THE SEWER SYSTEM AND TO PRESERVE THE SOLVENCY OF THE UTILITY; REPEALING SECTION 14.50; AND ADDING NEW CHAPTER 14.51 OF THE LYNNWOOD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR SUMMARY PUBLICATION.

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WHEREAS, the City of Lynnwood Sanitary Sewer System Plan dated November 2012, defines the Capital needs of the Sewer Utility; and

WHEREAS, the City desires to base sewer connection charges, in part, on the actual cost of providing capital construction improvements necessary to support development; and

WHEREAS, the City desires to make adjustments to procedures and administrative fees for processing certain utility-related actions to more fully recoup actual costs; and

WHEREAS, pursuant to RCW Chapter 35.92.025, which authorizes cities and towns to charge property owners seeking to connect to the sewerage system as a condition to granting the right to so connect, the City desires to institute a system of updated sewer connection charges that recoup the proportional cost of required system upgrades necessitated by new development and redevelopment of existing developments and reflecting changes in zoning;

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

Section 1. Chapter 14.50 of the Lynnwood Municipal Code is hereby repealed in its entirety;

Section 2. A new Chapter 14.51, Sewer Connection Charges, of the Lynnwood Municipal Code is hereby added:

Chapter 14.51  
SEWER CONNECTION CHARGES

**14.51.010 Purpose**

The purpose of this chapter is to establish Sewer Connection Charges and to provide procedures and regulations for calculating and collecting the charges.

**14.51.020 Intent**

The City Council of the City of Lynnwood hereby finds and determines that development activities, including but not limited to residential, commercial, retail, office, and industrial development, in the City of Lynnwood will create additional sewer flows and therefore demand and need for new or upgraded sewer facilities in the City, and the Council finds that such development activity should pay a proportionate share of the cost of such facilities needed to serve the development activity. The City of Lynnwood has conducted extensive research and analysis documenting the procedures for measuring the impact of development activity on needed new or upgraded public sewer facilities as documented in the City's most recent Wastewater Comprehensive Plan Update, and has prepared and relied upon an appropriate rate study which includes an analysis relating to the establishment of Sewer Connection Charges. The analysis utilizes a methodology for calculating charges that fulfills all of the requirements of RCW [35.92.025](#). A copy of the rate study relied upon by the City shall be kept on file with the City of Lynnwood Public Works Department and is available to the public for review. Pursuant to Chapter [35.92](#) RCW, the Council adopts this chapter to assess Sewer Connection Charges. The provisions of this chapter shall be liberally construed in order to carry out the purposes of the Council in establishing the charges.

**14.51.030 Sewer Connection Charge**

There is hereby established a "Sewer Connection Charge" which shall be imposed on all owners of real property seeking to connect said property and improvements to the City of Lynnwood sanitary sewer system.

**14.51.040 Definitions.**

The following words and terms shall have the following meanings for the purposes of this chapter, unless the context clearly requires otherwise.

A. "Applicant" means a person who applies for a building permit under the LMC and who is the owner of the subject property or the authorized agent of the property owner.

- 1 B. "Building permit" means an official document or certification which is issued by the City and which  
2 authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling,  
3 rehabilitation, erection, demolition, moving, or repair of a building or structure.
- 4 C. "Capital Facilities Plan" means the capital facilities element of the City's Comprehensive Plan adopted  
5 pursuant to Chapter [36.70A](#) RCW and such plan as amended.
- 6 D. "City" means the City of Lynnwood.
- 7 E. "Council" means the City Council of the City.
- 8 F. "Department" means the City's Department of Public Works.
- 9 G. "Development activity" or "development" means any construction or expansion of a building,  
10 structure, or use, any change in use of a building or structure, or any change in the use of land that  
11 creates additional demand for public facilities.
- 12 H. "Director" means the Director of the Department of Public Works of the City of Lynnwood or her/his  
13 designee.
- 14 I. "Equivalent Residential Unit" or "ERU" is the amount of sewer flow that equates to the average amount  
15 produced by a Residential Single Unit site.
- 16 J. "Hearing Examiner" means the Hearing Examiner operating pursuant to the powers and duties set  
17 forth by Chapter [2.22](#) LMC.
- 18 K. "LMC" means the City of Lynnwood Municipal Code.
- 19 L. "Non-residential" means any development activity except residential single-unit or residential  
20 multiple-unit development.
- 21 M. "Project Improvements" means site improvements and facilities that are planned and designed to  
22 provide service for a particular development activity and are necessary for the use and convenience of  
23 the occupants or users of the project and are not System Improvements. No improvement or facility  
24 included in a capital facilities plan adopted by the Council shall be considered a project improvement.
- 25 N. "Public Facilities," for purposes of this chapter, means the capital facilities owned or operated by the  
26 City or other governmental entities related to its public sewer system.

1 O. "Rate Study" means the "Utility Rate Study" most recently prepared and other studies relied upon by  
2 the City in establishing the Sewer Connection Charge methodology and fee schedule.

3 P. "Residential single-unit" means all dwelling units occupied by one family or by not more than five  
4 unrelated persons, including, but not limited to, detached single-family residences, and zero lot line  
5 buildings wherein the building is on a separate fee simple lot, used for residential purposes, and is  
6 served by a separate water meter.

7 Q. "Residential multiple-unit" means a residential building designed for two or more families, or for  
8 more than five unrelated persons, including, but not limited to, duplexes, triplexes, fourplexes,  
9 apartment buildings, dormitories, boarding houses and rooming houses, mobile homes in a mobile  
10 home park, and zero lot line buildings wherein the city permitted multiple units within a building to be  
11 served by a common water meter.

12 R. "RCW" means the Revised Code of Washington or, when followed or preceded by a numerical  
13 designation, a provision of the Revised Code of Washington.

14 S. "System Improvements" means public facilities that are included in the City of Lynnwood Wastewater  
15 Comprehensive Plan or Capital Facilities Plan, and such plans as amended, and are designed to provide  
16 service to service areas within the community at large, in contrast to project improvements.

17 T. "Sewer Connection Charge" means a payment of money imposed by the City on development activity  
18 pursuant to this chapter as a condition of granting development approval. "Sewer Connection Charge"  
19 does not include a building permit fee. Connection Charges shall be considered revenue of the Sewer  
20 Utility.

21 **14.51.050 Assessment of Sewer Connection Charge.**

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22 A. The City shall collect a Sewer Connection Charge from any applicant seeking to connect to the  
23 sanitary sewer system.

24 B. Upon request for a new or modified sewer service connection from any development, the City shall  
25 make an initial determination of the ERU applicable to the property. The applicant shall for non-  
26 residential properties, based on number and type of fixtures, calculate the daily sewer flow rate of the  
27 connection. The Director shall consider the documentation submitted by the applicant, but is not  
28 required to accept such documentation or analysis which the Director reasonably deems to be  
29 inapplicable, inaccurate or not reliable. The Director may require the applicant to submit additional or  
30 different documentation for consideration. The Director is authorized to adjust the Sewer Connection

1 Charge on a case-by-case basis based on the flow calculation, the specific characteristics of the  
2 development and/or principles of fairness. The flow rate shall then determine the number of ERU's as  
3 defined below.

4 C. A residential single unit property shall be assigned one ERU per unit as a Sewer Connection Charge. A  
5 residential multiple unit property shall be assigned seventy-five hundredths (0.75) ERU per unit. A non-  
6 residential property shall have a calculated ERU pursuant to the flow calculation described above, but in  
7 no case, shall the ERU be less than (0.75) ERU for any connection.

8 D. For purposes of this determination, an ERU for service shall consist of a projected usage of 125  
9 gallons per day of sewage flow.

10 E. The Sewer Connection Charge for each ERU of sewer service shall be \$2,480.

11 F. The Sewer Connection Charge shall be due and payable prior to issuance of the building permit.

12 G. Determinations made by the Director pursuant to this section may be appealed as set forth in LMC  
13 [14.51.090](#).

14 **14.51.060 Exemptions.**

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15 A. The following development activity shall be exempted from the payment of a Sewer Connection  
16 Charge:

17 1. Alteration or replacement of an existing residential or nonresidential structure that does not result in  
18 a net increase in sewer flows or add any residential units.

19 2. Any legal accessory dwelling unit approved under LMC Title [21](#), Zoning, as it is considered part of the  
20 single-family use associated with this charge.

21 3. Miscellaneous improvements which do not generate increased sewer flows including, but not limited  
22 to, fences, walls, and signs.

23 4. Demolition or moving of a structure.

24 5. A change of use that does not generate one or more additional ERU.

25 6. Rezones, comprehensive plan amendments, subdivisions, boundary line adjustment and lot line  
26 eliminations, or any other land use permits.

1 7. Any building permit application that has been submitted to the city before 5:00 p.m. the business day  
2 before the effective date of the ordinance codified in this chapter that has been deemed complete  
3 based on the information on file as of the effective date of the ordinance codified in this chapter.

4 **14.51.070 Credits.**

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5 A. An applicant may request that a credit or credits for their Sewer Connection Charge be awarded for  
6 the total value of system improvements, including dedications of land, improvements and/or  
7 construction provided by the applicant. Credits will be given only if the land, improvements, and/or the  
8 facility constructed are for one or more of the system improvements listed in the rate study as the basis  
9 for calculating the Sewer Connection Charge or, if in the opinion of the Director, project improvements  
10 benefit the public sewer system.

11 B. The Director shall determine if a request for credits meets the criteria in subsection (A) of this section,  
12 or under other applicable law.

13 C. Each request for a credit or credits shall include a legal description of the dedicated land, a detailed  
14 description of improvements or construction provided, and an adequate description of the development  
15 activity to which the credit will be applied.

16 D. For each request for a credit or credits, the Director shall determine the value of the dedicated land,  
17 improvements, or construction on a case-by-case basis. In the event that the applicant disagrees with  
18 the Director's valuation, the applicant may submit an appraisal for the Director's consideration prepared  
19 by a state certified appraiser holding a MAI (Member of the American Institute of Appraisers)  
20 designation and/or a construction estimate prepared by a licensed engineer in good standing pursuant  
21 to Chapter 18.43 RCW, in the category for the property to be valued, and who does not have a fiduciary  
22 or personal interest in the property being appraised or valued.

23 E. The appraiser and/or licensed engineer shall be directed to determine the fair market value of the  
24 total value of the dedicated land, improvements, and/or construction provided by the applicant. The  
25 applicant shall pay for the actual costs for the appraisal or valuation.

26 F. A credit shall also be granted for legally occurring sanitary sewer flows originating from the site prior  
27 to the requested development activity. The applicant shall submit with their ERU calculation in section  
28 14.51.040.B flow calculations that quantify the prior site sanitary sewer flow and ERU. This prior flow  
29 ERU shall be a credit towards the flow ERU generated by the proposed development activity.

1 G. After receiving and reviewing the appraisal, valuation, and/or prior site flow calculations the Director  
2 will determine the dollar amount of any credit, the basis for the credit, the legal description of the real  
3 property dedicated where applicable, and the adequate description of the system improvement to  
4 which the credit may be applied with issuance of the building permit. If the total value of any such credit  
5 exceeds the amount of the Sewer Connection Charge obligation, the developer will not be entitled to  
6 reimbursement of the difference.

7 H. Any claim for credit must be made before payment of the Sewer Connection Charge and prior to the  
8 issuance of the building permit. The failure to timely file such a claim shall constitute a final bar to later  
9 request any such credit.

10 I. Determinations made by the Director pursuant to this section shall be subject to the appeals  
11 procedures set forth in LMC [14.51.090](#).

12 **14.51.080 Periodic adjustment of fees.**

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13 The rate study supporting the Sewer Connection Charges shall be updated periodically, unless the City  
14 determines that circumstances have not changed to warrant an update.

15 **14.51.090 Reviews by the Director and appeals.**

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16 A. In order to obtain a building permit, any applicant shall pay the Sewer Connection Charge imposed by  
17 this chapter under protest and file for a review by the Director, followed by the option to appeal to the  
18 Hearing Examiner. No building permit shall be issued until the Sewer Connection Charge at issue have  
19 been paid.

20 Alternatively, any applicant may file for a review by the Director, followed by the option to appeal to the  
21 Hearing Examiner, without first paying the Sewer Connection Charge, providing the applicant is willing  
22 to postpone issuance of the building permit until after the appeal process when the final amount of the  
23 Sewer Connection Charge is known.

24 B. Reviews by the Director and appeals regarding the Sewer Connection Charge imposed on any  
25 development activity may only be filed by the applicant for the development activity at issue.

26 C. Before an appeal can be filed, the applicant must first file a request for review by the Director  
27 specifying the grounds thereof, as provided herein:

- 28       1. The request shall be in writing;

1           2. The request for review by the Director shall be filed within 14 calendar days after the applicant's  
2 payment of the Sewer Connection Charge at issue. The failure to timely file such a request shall  
3 constitute a final bar to later seek such review;

4           3. No administrative fee will be imposed for the request for review by the Director; and

5           4. The Director shall issue his/her determination in writing.

6           D. Following the determination issued by the Director, the applicant may elect to appeal the Director's  
7 decision to the Hearing Examiner. Any determinations which the Director is authorized to make  
8 pursuant to this chapter may be appealed to the Hearing Examiner.

9           E. Appeals to the Hearing Examiner must be filed within 14 calendar days of the Director's issuance of a  
10 written determination by filing a letter of appeal with the Public Works Department specifying the  
11 grounds thereof, and depositing the necessary appeal fee as set forth by Chapter [3.104](#) LMC. The failure  
12 to timely file an appeal shall constitute a final bar to later seek such review. The Director shall transmit  
13 to the office of the hearing examiner all papers constituting the record for the determination, including,  
14 where appropriate, the independent fee calculation.

15           F. The City shall fix a time for the hearing of the appeal and give notice to the parties in interest. In those  
16 cases, where the proposed development activity may require a public hearing under the authority of  
17 other chapters of the LMC, the hearings may be combined. At the hearing, any party may appear in  
18 person or by agent or attorney.

19           G. The Hearing Examiner is authorized to make findings of fact regarding the applicability of the Sewer  
20 Connection Charge to an applicant's development activity, the availability or amount of the credit, or  
21 the accuracy or applicability of an independent charge calculation. The Hearing Examiner's  
22 determination shall be final unless appealed to the superior court of Snohomish County in accordance  
23 with law within twenty-one (21) days after issuance of the decision of the Hearing Examiner.

24           H. The Hearing Examiner may, so long as such action is in conformance with the provisions of this  
25 chapter, reverse or affirm, in whole or in part, or may modify the determinations of the Director with  
26 respect to the amount of the Sewer Connection Charge imposed.

27 **14.51.100 Existing authority unimpaired.**

28           Nothing in this chapter shall preclude the City from requiring the applicant or the proponent of a  
29 development activity to mitigate significant probable adverse environmental impacts of a specific  
30 development activity pursuant to the State Environmental Policy Act, Chapter [43.21C](#) RCW, based on the



1 environmental documents accompanying the underlying development approval process, and/or Chapter  
2 58.17 RCW, governing plats and subdivisions; so long as the exercise of such authority is consistent with  
3 the provisions of Chapters 43.21C and 82.02 RCW.


4 Section 3. Severability. If any section, subsection, sentence, clause, phrase or word of this  
5 ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction,  
6 such invalidity or unconstitutionality therefore, shall not affect the validity or constitutionality of  
7 any other section, subsection, sentence, clause, phrase or word of this ordinance.

8 Section 4. Effective Date. This ordinance or a summary thereof consisting of the title shall be  
9 published in the official newspaper of the City, and shall take effect and be in full force five (5)  
10 days after publication.

11 PASSED BY THE CITY COUNCIL, the 12<sup>th</sup> day of February, 2018.

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APPROVED:

  
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Nicola Smith, Mayor

ATTEST/AUTHENTICATED:

  
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Sonja Springer, Finance Director

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Rosemary Larson, City Attorney

|                                     |            |
|-------------------------------------|------------|
| FILED WITH ADMINISTRATIVE SERVICES: | 02/10/2018 |
| PASSED BY THE CITY COUNCIL:         | 02/12/2018 |
| PUBLISHED:                          | 02/15/2018 |
| EFFECTIVE DATE:                     | 02/20/2018 |
| ORDINANCE NUMBER:                   | 3286       |



On the 12th day of February 2018 the City Council of the City of Lynnwood, Washington, passed ordinance 3286. A summary of the content of these ordinance, consisting of the title, provides as follows:

**ORDINANCE 3286**

**AN ORDINANCE AMENDING THE CONNECTION CHARGES FOR SANITARY SEWER SERVICES TO NEW DEVELOPMENT AND REDEVELOPMENT OF EXISTING DEVELOPED PROPERTIES TO IMPLEMENT THE ADOPTED LYNNWOOD SEWER SYSTEM PLAN, AND TO PROVIDE NECESSARY REVENUES TO FUND CAPITAL PROJECTS OF THE SEWER SYSTEM AND TO PRESERVE THE SOLVENCY OF THE UTILITY; REPEALING SECTION 14.50; AND ADDING NEW CHAPTER 14.51 OF THE LYNNWOOD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR SUMMARY PUBLICATION.**

The full text of these ordinances will be mailed upon request.

DATED this 15<sup>th</sup> day of February 2018.

  
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Debbie Karber, Deputy City Clerk

# Everett Daily Herald

## Affidavit of Publication

State of Washington }  
County of Snohomish } ss

Dicy Sheppard 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 EDH796487 ORDINANCE 3286 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 02/15/2018 and ending on 02/15/2018 and that said newspaper was regularly distributed to its subscribers during all of said period.

The amount of the fee for such publication is \$37.36.

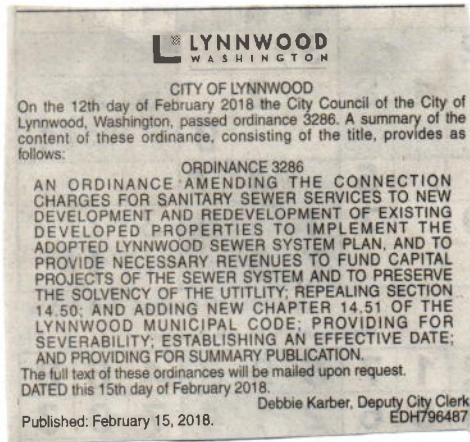
Dicy Sheppard

Subscribed and sworn before me on this 15<sup>th</sup> day of February, 2018.

Linda Phillips

Notary Public in and for the State of Washington.

City of Lynnwood - LEGAL AIDS | 14127890  
DEBBIE KARBER





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. 3286 of the City of Lynnwood, Washington, entitled as follows:

### **ORDINANCE 3286**

**AN ORDINANCE AMENDING THE CONNECTION CHARGES FOR SANITARY SEWER SERVICES TO NEW DEVELOPMENT AND REDEVELOPMENT OF EXISTING DEVELOPED PROPERTIES TO IMPLEMENT THE ADOPTED LYNNWOOD SEWER SYSTEM PLAN, AND TO PROVIDE NECESSARY REVENUES TO FUND CAPITAL PROJECTS OF THE SEWER SYSTEM AND TO PRESERVE THE SOLVENCY OF THE UTILITY; REPEALING SECTION 14.50; AND ADDING NEW CHAPTER 14.51 OF THE LYNNWOOD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR SUMMARY PUBLICATION.**

That said ordinance was passed by the Council on February 12, 2018 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 February 15, 2018.

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Debra Karber, Deputy City Clerk