



**LYNNWOOD**  
WASHINGTON

**ORDINANCE NO. 3340**

**AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON,  
RELATING TO REGULATION OF DEVELOPMENT AGREEMENTS;  
REPEALING CHAPTER 1.37 LMC; RENUMBERING THE CURRENT  
LMC 21.02.275; ADDING A NEW LMC 21.02.274 AND 21.02.275  
AND A NEW CHAPTER 21.29 LMC; AND PROVIDING FOR  
SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY  
PUBLICATION.**

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WHEREAS, the City of Lynnwood is a municipal corporation organized under the laws of the State of Washington; and

WHEREAS, RCW 36.70B.170-.210 authorize cities in Washington to enter into agreements governing the development of real property with a person having ownership or control of such property; and

WHEREAS, on March 14, 2005, the Lynnwood City Council passed Ordinance No. 2553 adopting the City Center Sub-Area Plan as an amendment to the City of Lynnwood Comprehensive Plan; and

WHEREAS, on July 10, 2006, the Lynnwood City Council passed Ordinance No. 2626 authorizing the use of development agreements, which provisions were codified as Chapter 1.37 LMC; and

WHEREAS, in 2008, the Puget Sound Regional Council (PSRC) designated the Alderwood Mall area and City Center as a Regional Growth Center as part of VISION 2040; and

WHEREAS, with the passage of time since the adoption of Chapter 1.37 LMC, amendments to the code have been identified to better implement the intent of the City Center Sub-Area Plan and Regional Growth Center; and

WHEREAS, on July 11, 2019, the Lynnwood Planning Commission held a public hearing on the revisions to the Lynnwood Municipal Code stated 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 provisions of this Ordinance; and

1 WHEREAS, on July 22, 2019, the City Council held a public hearing on the revisions to the  
2 Lynnwood Municipal Code stated in this Ordinance, and all person wishing to be heard were heard; and

3 WHEREAS, the City Council after due consideration finds that the provisions of this Ordinance  
4 are consistent with and implement the City’s Comprehensive Plan, are consistent with applicable state  
5 law, and are to the best interest of the public health, safety and general welfare; and

6 WHEREAS, the City Council finds that there are sufficient reasons to take action to ensure that  
7 development agreement may be a development tool to provide adequate flexibility to meet market  
8 demands while providing additional public benefits; and  
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10 WHEREAS, based on these findings, it is appropriate to amend Chapter 21.02 LMC, create  
11 Chapter 21.29 LMC, and repeal Chapter 1.37 LMC; now, therefore

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

13 **Section 1.** Upon consideration of the provisions of this Ordinance, the City Council finds that the new  
14 code and amendments contained herein are: a) consistent with the comprehensive plan; and b)  
15 substantially related to the public health, safety, or welfare; and c) not contrary to the best interest of  
16 the citizens and property owners of the city of Lynnwood.

17 **Section 2.** A new section 21.02.274 is added to the Lynnwood Municipal Code to read as follows:

18 **21.02.274 Development agreement.** “Development agreement” means an agreement between  
19 the city and a person who owns or controls real property regarding the development, use and mitigation  
20 of development of that property.

21 **Section 3.** A new section 21.02.275 is added to the Lynnwood Municipal Code to read as follows:

22 **21.02.275 Development regulations.** “Development regulations” means the controls placed on  
23 development or land use activities by a county or city, including, but not limited to, zoning ordinances,  
24 critical areas ordinances, shoreline master programs, official controls, planned unit development  
25 ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments  
26 thereto. A development regulation does not include a decision to approve a project permit application,  
27 as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance  
28 of the legislative body of the county or city.

29 **Section 4.** LMC 21.02.275 is renumbered as follows:

30 **21.02.276 Distribution center.** “Distribution center” is a warehouse or other specialized building,  
31 often with refrigeration or air conditioning, which is stocked with products (goods) to be redistributed to  
32 retailers, to wholesalers, or directly to consumers.

33 **Section 5.** Chapter 1.37 “Development Agreement Procedure and Criteria” of the Lynnwood Municipal  
34 Code is repealed.

35 **Section 6.** A new Chapter 21.29 “Development Agreements” is added to the Lynnwood Municipal Code  
36 to read as follows:  
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1 **21.29.010 Purpose.**

2 Certainty in the development review process can significantly encourage development or  
3 redevelopment of real property. This certainty is especially important for large-scale or multiphase  
4 developments that take years to complete and that require substantial financial commitments at an  
5 early stage. The city may, when appropriate, enhance certainty by entering into a development  
6 agreement with a project sponsor that addresses the “ground rules” for review of the development  
7 application and construction of the project. A development agreement provides the opportunity for the  
8 city and the developer to agree on the scope and timing of the project, applicable regulations and  
9 requirements, mitigation requirements and other matters relating to the development process. A  
10 development agreement promotes the general welfare by balancing the public and private interests,  
11 providing reasonable certainty for a development project, and addressing other matters, including  
12 reimbursement over time for the financing of public facilities.

13 **21.29.020 Authority.**

14 Pursuant to RCW 36.70B.170 through 36.70B.210, the city council may approve and enter into a  
15 development agreement with any person, partnership, corporation or other entity that controls real  
16 property within the city or within the city’s urban growth area.

17 **21.29.030 Agreement contents.**

18 A proposed development agreement shall, at a minimum, include provisions required by  
19 RCW 36.70B.170 through 36.70B.210, and shall set forth the development standards and other  
20 provisions that shall apply to and govern the use and development of the real property for the duration  
21 specified in the agreement. An agreement may also contain such other provisions as the city and the  
22 property owner or person controlling the property may mutually agree on, such as, but not limited to,  
23 the financing for or timing of mitigation and the vesting of development rights. A development  
24 agreement shall be consistent with applicable development regulations, including this chapter.

25 **21.29.040 Public notice.**

- 26 A. The applicable department director shall distribute the notice at least 20 calendar days before  
27 the hearing in the following manner:  
28 1. Publishing the notice in the official newspaper of the city (LMC 1.08.010);  
29 2. Posting the notice at the official posting place(s) of the city (LMC 1.12.010) and at the  
30 subject property so that the notice is readable from all adjacent public streets; and  
31 3. Mailing the notice by regular mail to owners of property within at least 600 feet of the  
32 boundary of the subject property.  
33 B. The notice requirement(s) of this section shall be satisfied by substantial compliance with such  
34 requirements.

35 **21.29.050 Public hearing.**

- 36 A. Prior to acting on a proposed development agreement, the city council shall hold a public  
37 hearing on the proposed agreement, at which time all those wishing to speak shall be heard.  
38 The applicable department director shall prepare a notice of the public hearing that contains the  
39 following:  
40 1. Name of the property/project to which the agreement would apply;  
41 2. Street address and/or a description of the property in nonlegal terms;  
42 3. Statement that a development agreement is proposed for the subject property and  
43 reference to this chapter;  
44 4. Brief summary of the proposed development agreement;

- 1 5. Date, time and place of the hearing; and  
2 6. Statement of the right of any person to participate in the hearing.

3 **21.29.070 Decision criteria.**

4 The city council may approve and enter into a proposed development agreement if the council finds, in  
5 its sole discretion, that the proposed agreement is consistent with the city's comprehensive plan, the  
6 development regulations and the purpose of this chapter, and that entering into the agreement is in the  
7 city's best interest.

8 **21.29.090 Recording.**

9 The development agreement shall include a provision that requires the applicant to record the  
10 agreement with the Snohomish County Auditor's Office.

11 **21.29.100 Mobile home park preservation.**

12 The owner of an existing mobile home park that is identified in policy MH-1 of the comprehensive plan  
13 may preserve the mobile home park pursuant to a development agreement that:

- 14 A. Is processed and approved in accordance with this chapter;  
15 B. Preserves and maintains the mobile home park for a minimum term of five years, which term  
16 shall renew automatically for additional periods as agreed to by the city and the owner, unless  
17 the owner notifies the city and the residents and occupants of the mobile home park in writing  
18 of termination of the development agreement at least one year before the termination date;  
19 C. Includes special rates for water, surface water and sewer service as set forth in this code;  
20 D. Waives all permit, approval, processing and inspection fees for any construction or repair to  
21 maintain, operate or improve the mobile home park during the agreement period, and renewals  
22 thereof; and  
23 E. Contains additional terms and conditions that are agreed to by the owner and the city council.

24 **21.29.200 Development agreement in the Regional Growth Center or City Center.**

25 The City Council may utilize development agreements on properties located within the designated  
26 Regional Growth Center as adopted by the Puget Sound Regional Council or the Lynnwood City Center.

- 27 A. Additional Criteria for Approval. For development agreements within the Regional Growth  
28 Center and/or City Center, in addition to the criteria of LMC 21.29.070, the City Council may  
29 enter into an agreement if the following criteria are met.  
30 1. The agreement must be consistent with the City Center Subarea or Regional Growth  
31 Center Plan;  
32 2. The agreement must provide public benefits, including but not limited to those  
33 provided in LMC 21.29.200.C, that would not otherwise be achieved under the Code;  
34 and  
35 3. The City Council determines the agreement serves the public interest, including but  
36 not limited to achieving the City Center Subarea or Regional Growth Center Plan  
37 vision.  
38 B. Flexible Development Regulations. The development agreement may provide flexibility in the  
39 development regulations by proposing alternative requirements as agreed to by City Council. In  
40 no case shall the development agreement allow uses that are not otherwise permitted under  
41 this title.

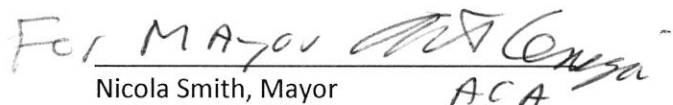
- 1 C. Public Benefits. The City Council may seek to balance flexibility for development with additional  
2 public benefits by incorporating public benefit elements into the development agreement. The  
3 development agreement may include, but not limited to, benefits such as the following:  
4 1. Sustainability. The support of sustainability may be sought by including any of the following:  
5 a. Green Building standards such as USGBC LEED or equivalent are incorporated into the  
6 development. The level of certification may be determined at time of development  
7 agreement approval.  
8 b. Electric Vehicle Charging Stations are provided throughout the development and are  
9 made available to the public.  
10 c. Greenhouse Gas (GhG) inventories are conducted annually and reported to the City of  
11 Lynnwood.  
12 2. Affordable Housing. The development may be required to provide a portion of units to be  
13 affordable units. The range of income qualifications, number of units, and term length  
14 shall be determined at time of development agreement approval;  
15 3. Park and Open Space. Development may be required to dedicate a portion of land for the  
16 use of parks and open space as consistent with the adopted Parks, Recreation, Open  
17 Space Plan and/or City Center Parks Plan. Land dedication may be used to offset Park  
18 Impact Fees per LMC 3.107;  
19 4. Economic Benefits. The City Council may require an Economic Benefits Analysis to be  
20 conducted prior to or following the adoption of the development agreement;  
21 5. Public Infrastructure. The development agreement may outline public infrastructure  
22 improvements that serve the City Center and are provided by the developer. These  
23 projects may be credited to applicable service, connection, or impact fees;  
24 6. Public Art and Placemaking. The development agreement may outline elements of public  
25 art and other placemaking methods that exceed currently adopted requirements; or  
26 7. Other Public Benefits. The agreement may include other public benefits as proposed by an  
27 applicant and approved by the City Council.

28 **Section 7.** If any section, sentence, clause or phrase of this Ordinance should be held to be invalid  
29 or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not  
30 affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

31 **Section 8.** This Ordinance or a summary thereof consisting of the title shall be published in the  
32 official newspaper of the City and shall take effect and be in full force five (5) days after publication.

33 PASSED BY THE CITY COUNCIL, the 12th day of August 2019.

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35 APPROVED:

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39 Nicola Smith, Mayor ACA  
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ATTEST/AUTHENTICATED:

D. Kaden for

Sonja Springer, Finance Director

per DSA 8/9/19

APPROVED AS TO FORM:

Rosemary Larson

Rosemary Larson, City Attorney

PASSED BY THE CITY COUNCIL: 08/12/2019  
PUBLISHED: 08/16/2019  
EFFECTIVE DATE: 08/21/2019  
ORDINANCE NUMBER: 3340






On the 12<sup>th</sup> day of August 2019 the City Council of the City of Lynnwood, Washington, passed ordinance 3340. A summary of the content of this ordinance, consisting of the title, provides as follows:

**ORDINANCE NO. 3340**

**AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, RELATING TO REGULATION OF DEVELOPMENT AGREEMENTS; REPEALING CHAPTER 1.37 LMC; RENUMBERING THE CURRENT LMC 21.02.275; ADDING A NEW LMC 21.02.274 AND 21.02.275 AND A NEW CHAPTER 21.29 LMC; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.**

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

DATED this 16<sup>TH</sup> day of August 2019

  
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Debbie Karber, Deputy City Clerk

# Everett Daily Herald

## Affidavit of Publication

State of Washington }  
County of Snohomish } ss

Leanna Hartell 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 EDH869854 ORD. 3340, 3341 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 08/16/2019 and ending on 08/16/2019 and that said newspaper was regularly distributed to its subscribers during all of said period.

The amount of the fee for such publication is \$43.25.

Leanna Hartell

Subscribed and sworn before me on this 16<sup>th</sup> day of August, 2019.

Linda Phillips

Notary Public in and for the State of Washington.

City of Lynnwood - LEGAL ADS | 14127890  
DEBBIE KARBER

**LYNNWOOD**  
WASHINGTON

CITY OF LYNNWOOD, WASHINGTON

On the 12th day of August 2019 the City Council of the City of Lynnwood, Washington, passed ordinance 3340 and 3341. A summary of the content of these ordinances, consisting of the title, provides as follows:

ORDINANCE NO. 3340  
AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, RELATING TO REGULATION OF DEVELOPMENT AGREEMENTS; REPEALING CHAPTER 1.37 LMC; RENUMBERING THE CURRENT LMC 21.02.275; ADDING A NEW LMC 21.02.274 AND 21.02.275 AND A NEW CHAPTER 21.29 LMC; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

ORDINANCE NO 3341  
AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ADOPTING AMENDMENTS TO THE 2019-2020 BIENNIAL BUDGET; PROVIDING FOR TRANSMITTAL OF THE AMENDED BUDGET TO THE STATE; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

The full text of these ordinances will be mailed upon request.  
DATED this 16TH day of August 2019

Debbie Karber, Deputy City Clerk  
EDH869854

Published: August 16, 2019.

Linda Phillips  
Notary Public  
State of Washington  
My Appointment Expires 08/29/2021