

**CITY OF LYNNWOOD**

**ORDINANCE NO. 3447**

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ADOPTING AMENDMENTS TO THE CITY'S ZONING CODE INCLUDING CHAPTERS 21.02, 21.24, 21.73, CONCERNING ESSENTIAL PUBLIC FACILITIES; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

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

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, on April 17, 2023, City Council adopted Ord. 3411 imposing a six-month moratorium on the acceptance and processing of applications for substance abuse outpatient clinics; and

WHEREAS, on May 16, 2023, the Washington State Legislature passed, and Governor Inslee subsequently signed, Second Engrossed Second Substitute Senate Bill (2E2SSB) 5536, which permanently addresses the criminality of drug possession and use in Washington in the wake of the Washington Supreme Court's State v. Blake decision, and amends RCW 36.70A.200 regarding essential public facilities; and

WHEREAS, on August 7, 2023, the City of Lynnwood SEPA Responsible Official issued a Determination of Nonsignificance (DNS) on the proposal; and

WHEREAS, on August 10, 2023, 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 September 14, 2023 the Lynnwood Planning Commission held a public hearing on proposed amendments to the Lynnwood Municipal Code provided by 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 approval that the Lynnwood City Council adopt the amendments to the Lynnwood Municipal Code as provided herein; and

WHEREAS, on September 25, 2023, the Lynnwood City Council held a public hearing on proposed amendments to the Lynnwood Municipal Code provided by this ordinance, and all persons wishing to be heard were heard; now therefore

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

40 **Section 1. Findings:** The City adopts the above recitals, labelled “Whereas” clauses, as findings  
41 of fact and incorporates them by reference as if fully set forth herein. In addition, and upon  
42 consideration of the provisions of this Ordinance, the City Council finds that the new code and  
43 amendments contained herein are: a) consistent with the comprehensive plan; and b) substantially  
44 related to the public health, safety, or welfare; and c) not contrary to the best interest of the citizens  
45 and property owners of the city of Lynnwood.

46 **Section 2. Amendments:**

47 A. LMC 21.02.318 is amended to read as follows:  
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49 LMC 21.02.318 “Essential public facility” or “EPF” means all facilities defined in RCW  
50 36.70A.200, and all facilities that appear on the list maintained by the State Office of  
51 Financial Management pursuant to RCW 36.70A.200(4).

52 B. LMC 21.02.384 is renumbered to LMC 21.02.383 and LMC 21.02.383 shall read as  
53 follows:  
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55 LMC 21.02.383 “Gross leaseable area” means the area included within surrounding walls  
56 of a building or portion thereof, exclusive of vent shafts, courts and stairways. In a  
57 regional shopping center, the “gross leaseable area” does not include the pedestrian mall,  
58 provided it is not used for the sale, storage or display of merchandise.

59 C. LMC 21.02.384 is hereby adopted to read as follows:  
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61 LMC 21.02.384 "Harm reduction programs" means programs that emphasize working  
62 directly with people who use drugs to prevent overdose and infectious disease transmission,  
63 improve the physical, mental, and social well-being of those served, and offer low  
64 threshold options for accessing substance use disorder treatment and other services.

65 **Section 3. Repealer:** LMC 21.24.210 “Conditional use Permits” is hereby repealed in its entirety.

66 **Section 4. Amendments:**  
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68 A. 21.73.010 Purpose – Applicability is hereby amended to read as follows:  
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70 A. The purpose of this chapter is to implement the Growth Management Act and the  
71 Lynnwood comprehensive plan by establishing processes for the siting and expansion  
72 of essential public facilities (EPFs) in the city of Lynnwood as necessary to support orderly  
73 growth and delivery of public services. The city’s goal in establishing the regulations under  
74 this chapter is to ensure the timely, efficient and appropriate siting of EPFs while  
75 simultaneously identifying, analyzing, and mitigating adverse community and  
76 environmental impacts that may be created by such facilities. Nothing in this chapter  
77 should be construed as an attempt by the city to preclude the siting of essential public  
78 facilities in contravention of applicable state law.

79 B. The following chapter is applicable to all facilities established but not limited to, RCW  
80 36.70A.200, Lynnwood Comprehensive Plan, and LMC 21.02 as essential public  
81 facilities.

82 B. 21.73.015 Siting or Expansion of an Essential Public Facility is hereby amended to read as  
83 follows:

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85 A. Any application for any essential public facility shall include a project narrative  
86 describing at least the following:

- 87 1. An equity analysis showing that consideration was given to potential sites  
88 such that siting of the facility will have no undue impact on any one racial,  
89 cultural, or socio-economic group, and that there will not be a resulting  
90 concentration of similar facilities in a particular neighborhood.
- 91 2. Description of a need for the project, as supported by a detailed written  
92 analysis of the projected service population, an inventory of existing and  
93 planned comparable facilities, and the projected demand for the type of  
94 facility proposed;
- 95 3. Description of reasonably investigated alternative sites, as evidenced by a  
96 detailed explanation of site selection methodology;
  - 97 a. If the land on which a local essential public facility is proposed is  
98 located in a residential zoning district, the applicant must  
99 demonstrate that there is no other feasible location for the facility  
100 and that the exclusion of the facility from the residential districts of  
101 the city would preclude the siting of all similar facilities anywhere  
102 within the city.
- 103 4. Descriptions of the project complying with any policy guideline or  
104 requirements set forth by Washington State including but not limited to:
  - 105 a. Policy guidelines adopted by the Secretary of Social and Health  
106 Services for the State of Washington for the siting of an Secure  
107 Community Transition Facility (SCTF) shall be considered when  
108 providing for the siting of secure community transition facilities.
  - 109 b. The siting requirements set forth in RCW 71.09.250  
110 through 71.09.340 shall be considered as minimum requirements and  
111 nothing therein shall prevent the imposition of any condition or  
112 cause for denial of a conditional use permit for an SCTF so long as  
113 the condition or cause for denial does not impose a requirement more  
114 restrictive than those specifically addressed in  
115 RCW 71.09.285 through 71.09.340.
- 116 5. Descriptions of the project complying provisions set forth in the Lynnwood  
117 Comprehensive Plan.
- 118 6. Descriptions of the project complying with all provisions of code for  
119 development within the zoning district in which it is proposed to be located.
  - 120 a. If an essential public facility does not meet all such provisions, the  
121 applicant must demonstrate that compliance with such provisions  
122 would preclude the siting of all similar facilities anywhere within  
123 the city.
- 124 7. Proposed mitigation measures including the use of effective site buffering  
125 from adjacent uses.
- 126 8. A general description of the security plan for the facility and the residents.
- 127 9. Proposed operating rules for the facility.
- 128 10. A schedule and analysis of all public input solicited or to be solicited during  
129 the siting process.
- 130 11. The City of Lynnwood may require expert assistance in reviewing the  
131 application. The fee charged for the EPF application shall be sufficient to pay

132 for such expert assistance unless both parties agree to a separate staffing  
133 agreement.

134 **B. The Mayor and each City Council member in office when a Pre-Development Meeting**  
135 **is scheduled and when an application for an essential public facility is submitted to the**  
136 **Department of Development and Business Services (the “Department”) shall receive**  
137 **notification of the Pre-Development Meeting, and a copy of the application within 10**  
138 **days of the Department’s receipt of the same.**

139 C. 21.73.020 Approval of local essential public facilities is hereby amended to read as follows:

140 A. A conditional use permit shall be required as provided in this section before any local  
141 essential public facility is to be located or expanded in Lynnwood.

142 B. The hearing examiner may approve, or approve with modifications, and impose  
143 reasonable conditions upon the local essential public facility in order to ensure that:

144 1. Necessary infrastructure is or will be made available to ensure safe  
145 transportation access and transportation concurrency;

146 2. Adequate service capacity is or will be made available to ensure that public  
147 agencies have the capacity to handle changes in the demand for public services  
148 that may occur as the result of the facility, including but not limited to insurance  
149 costs, public awareness and public education costs and that the facility will not  
150 adversely affect public safety;

151 3. Any and all probable significant adverse environmental impacts including, but  
152 not limited to, noise, air quality, habitat, soil quality and soil stability of  
153 neighboring properties and light pollution are adequately mitigated.

154 C. The decision criteria set forth herein shall not be applied in such a manner as to  
155 preclude the siting or expansion of any local essential public facility in the city of  
156 Lynnwood. In the event that a local essential public facility cannot, by the imposition of  
157 the provisions of this chapter or reasonable conditions of approval, be made to meet the  
158 decision criteria in this section on the preferred site described in the proposal, the hearing  
159 examiner shall consider:

160 Authorize the essential public facility to deviate from the provisions of this code  
161 to the minimum extent necessary to avoid preclusion.

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163 Require the local essential public facility to be located on one of the investigated  
164 alternative sites, if the proposal can be reasonably conditioned to meet the  
165 decision criteria at the alternative site; or

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167 Approve the siting or expansion of the local essential public facility at the  
168 proposed site with such reasonable conditions of approval as may be imposed to  
169 mitigate the impacts of the proposal to the maximum extent practicable, if there is  
170 no available alternative site on which the decision criteria can be met.

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172 D. 21.73.030 Approval of regional and/or state essential public facilities is hereby amended  
173 to read as follows:

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A. A development agreement shall be required as provided by Chapter 21.29 LMC and this section before any state or regional essential public facility may be located or expanded within the city of Lynnwood.

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B. The city council may approve, or approve with modifications, and impose reasonable conditions upon the state or regional essential public facility in order to ensure that:

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1. Necessary infrastructure is or will be made available to ensure safe transportation access and transportation concurrency;

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2. Adequate service capacity is or will be made available to ensure that public agencies have the capacity to handle changes in the demand for public services that may occur as the result of the facility, including but not limited to insurance costs, public awareness and public education costs, and that the facility will not adversely affect public safety;

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3. Any and all probable significant adverse environmental impacts including, but not limited to, noise, air quality, habitat, soil quality and soil stability of neighboring properties and light pollution are adequately mitigated.

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C. The city council may not preclude the siting or expansion of a state or regional essential public facility, but may impose reasonable conditions in order to mitigate adverse impacts that may otherwise occur.

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**Section 5. Effective Date:** This ordinance or an approved summary thereof consisting of its title shall be published in the City’s official newspaper of record and shall take effect and be in full force five days following its publication.

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

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PASSED BY THE CITY COUNCIL THIS 9<sup>th</sup> day of October 2023.

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APPROVED:  
DocuSigned by:  
*Christine Frizzell* 10/12/2023  
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Christine Frizzell, Mayor

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ATTEST/AUTHENTICATED:  
DocuSigned by:  
*Luke Lonie*  
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Luke Lonie, City Clerk

APPROVED AS TO FORM:  
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*Lisa Marshall*  
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Lisa M. Marshall, City Attorney

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