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ORDINANCE NO. 866

AN ORDINANCE OF THE CITY OF CARNATION, WASHINGTON, AMENDING TITLE 15 CMC BY THE ADDITION OF A NEW CHAPTER 15.120 CMC ESSENTIAL PUBLIC FACILITIES THERETO; UPDATING AND CLARIFYING THE CITY'S STANDARDS AND PROCEDURES FOR SITING AND REGULATING ESSENTIAL PUBLIC FACILITIES PURSUANT TO RCW 36.70A.200; AMENDING CHAPTER 15.08 CMC BASIC DEFINITIONS AND INTERPRETATIONS AND CHAPTER 15.40 CMC PERMISSIBLE USES TO INCLUDE NEW DEFINITIONS AND REFERENCES RELATED TO ESSENTIAL PUBLIC FACILITIES; SETTING FORTH LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, pursuant to RCW 36.70A.200, each local jurisdiction planning under the Growth Management Act must adopt a process for siting essential public facilities; and

WHEREAS, the City Council desires to update and amend the City's codified regulations by establishing a new comprehensive framework of standards and procedures for siting essential public facilities, along with corollary zoning code definitions and references in the City's Table of Permissible Uses; NOW, THEREFORE,

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

Section 1. Findings. The City Council hereby adopts the above recitals as findings in support of the regulations set forth in this ordinance, together with the following:

A. The City is authorized by State law, including but not limited to Chapter 35A.11 RCW, Chapter 35A.63 RCW and Chapter 36.70A RCW, to enact local regulations governing the use and development of real property within the City's jurisdiction. The City is further authorized and directed to adopt non-preclusive local regulations governing the siting of essential public facilities.

B. The Planning Board conducted a public hearing on the substance of this ordinance on May 26, 2015, and recommended adoption by the City Council. The City Council held a public hearing on this ordinance on August 4, 2015.

C. The regulations set forth in this ordinance have been processed and considered by the City in material compliance with all applicable procedural requirements, including but not limited to requirements related to public notice and comment.

D. All relevant requirements of SEPA have been satisfied with respect to this ordinance.

E. The City Council has carefully considered, and the regulations set forth in this ordinance satisfy, the review criteria codified at CMC 15.100.030(E).

F. The regulations set forth in this ordinance will advance the public health, safety and welfare.

Section 2. Amendment of Title 15 CMC. Title 15 of the Carnation Municipal Code is hereby amended by the addition of new Chapter 15.120 Essential Public Facilities to provide in its entirety as contained in Exhibit A, attached hereto and incorporated herein by this reference as if set forth in full.

Section 3. Amendment of CMC 15.08.010. Section 15.08.010 of the Carnation Municipal Code is hereby amended by the addition of new definitions for "Essential public

facility”, “Locally sponsored essential public facility” and “State or regionally sponsored essential public facility” to provide in their respective entirety as contained in Exhibit B, attached hereto and incorporated herein by this reference as if set forth in full.

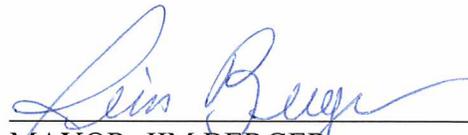
Section 4. Amendment of Table of Permissible Uses—Chapter 15.40 CMC, Table I. The Table of Permissible Uses referenced in Section 15.40.010 of the Carnation Municipal Code and codified as Table I of Chapter 15.40 CMC is hereby amended as indicated in Exhibit C, attached hereto and incorporated herein by this reference as if set forth in full.

Section 6. Copy to Commerce. Pursuant to RCW 36.70A.106, the Planning Director is hereby authorized and directed to provide a copy of this ordinance to the State Department of Commerce within 10 days of adoption.

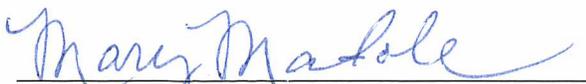
Section 7. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause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

Section 8. Effective Date. 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.

APPROVED by the Carnation City Council this 4th day of August, 2015.


MAYOR, JIM BERGER

ATTEST/AUTHENTICATED:


CITY CLERK, MARY MADOLE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 
J. ZACHARY LELL

FILED WITH THE CITY CLERK: 06/05/2015
PASSED BY THE CITY COUNCIL: 08/04/2015
PUBLISHED: 08/12/2015
EFFECTIVE DATE:..... 08/17/2015
ORDINANCE NO. 866

Exhibit A

**Chapter 15.120
ESSENTIAL PUBLIC FACILITIES**

Sections:

- 15.120.010 Purpose and applicability.
- 15.120.020 Exemptions.
- 15.120.030 Identification and classification of essential public facilities.
- 15.120.040 Conditional use permit required for essential public facilities.
- 15.120.050 Decision criteria for locally sponsored essential public facilities.
- 15.120.055 Decision criteria for state and regionally sponsored essential public facilities.
- 15.120.060 Development agreements for essential public facilities.
- 15.120.065 Federally sponsored facilities.
- 15.120.070 Modifications for development agreements.
- 15.120.080 Independent consultant review.
- 15.120.090 Building permits.
- 15.120.100 Final decision timeframe for essential public facilities
- 15.120.110 Zones where essential public facilities will be permitted as conditional uses

15.120.010 Purpose and applicability.

The purpose of this chapter is to establish a formal process for identifying and siting essential public facilities and minimizing their adverse impacts. Essential public facilities are defined in Chapter 15.08 CMC Basic Definitions and Interpretations and include, but are not limited to, airports, state education facilities, state or regional transportation facilities, jails and other correctional facilities.

The provisions of this chapter shall be reasonably construed and applied in a manner that ensures the siting of essential public facilities within the city of Carnation is not precluded in violation of applicable state law, including without limitation RCW 36.70A.200. For the purposes of this chapter, “preclude” is defined as to render impossible or impracticable, and “impracticable” is defined as not practicable, incapable of being accomplished by the means employed or at command.

Without prejudice to the foregoing, the zoning and permissible use regulations set forth at Chapter 15.36 CMC and 15.40 CMC shall not be construed in a manner that unlawfully precludes essential public facilities.

15.120.020 Exemptions.

Essential public facilities for which the city's regulatory authority is preempted by state or federal law, or is otherwise inconsistent with state or federal law, are exempt from the provisions of this chapter to the extent of such preemption.

15.120.030 Identification and classification of essential public facilities.

Following the preapplication meeting, the City Manager or his/her designee shall determine: (i) if the subject application is for an essential public facility, and, if so, (ii) whether the essential public facility is locally sponsored essential public facility or a state or regionally sponsored essential public facility. Such determination shall be promptly communicated in writing to the applicant.

15.120.040 Conditional use permit required for essential public facilities.

- A. Essential public facilities shall qualify as conditional uses, subject to the requirements of Chapter 15.09 CMC Local Project Review and Chapter 15.18 CMC Land Use Approvals, Part I Special Use and Conditional Use Permits, except to the extent otherwise provided by this chapter.
- B. Locally sponsored essential public facilities shall be limited to the zoning districts identified in CMC 15.40 Permissible Uses.
- C. The conditional use permit application shall also include a public participation plan designed to encourage early and meaningful public involvement in the permitting decision and in determining possible mitigation measures.
- D. An essential public facility must satisfy the conditions of this chapter and Chapter 15.18 CMC, Part I Special Use and Conditional Use Permits, except as otherwise provided by this chapter.
- E. Conditional use permits for essential public facilities may not be conditioned or denied to the extent that the condition or denial would preclude the siting of the essential public facility.

15.120.050 Decision criteria for locally sponsored essential public facilities.

The hearing examiner may approve, or approve with conditions, a conditional use permit for a locally sponsored essential public facility only when the proposal meets all of the following criteria in addition to the criteria imposed by Chapter 15.18 CMC Part I Special and Conditional Use Permits:

- A. The proposal is consistent with the comprehensive plan;
- B. The project sponsor has demonstrated the need for the project, supported by an analysis of the projected service population, an inventory of existing and planned comparable facilities, and the projected demand for the type of facility proposed;
- C. The sponsor has reasonably investigated alternative sites, as evidenced by a detailed explanation of site selection methodology;
- D. The project is consistent with the sponsor's own long-range plans for facilities and operations;
- E. The sponsor has provided a meaningful opportunity for public participation in the siting decision and development of mitigation measures that is appropriate in light of the project's scope, applicable requirements of the city code, and state or federal law;
- F. The proposal, as conditioned, complies with all applicable provisions of the city code;
- G. The project site meets the facility's minimum physical site requirements, including reasonably projected expansion needs. Site requirements shall be determined by reference to the minimum size of the facility, setbacks, access, support facilities, topography, geology, and on-site mitigation needs;
- H. The proposal, as conditioned, adequately mitigates adverse impacts to life, limb, property, the environment, public health and safety, transportation system, economic development, and other identified impacts;
- I. The proposal incorporates specific features to ensure that it is reasonably compatible with the existing or intended character, appearance, quality of development, and physical characteristics of the site and surrounding properties; and
- J. Essential public facilities shall, to the extent reasonably practicable, be located and designed to minimize adverse impacts on nearby residential areas.

12.120.055 Decision criteria for state and regionally sponsored essential public facilities.

The hearing examiner shall approve, or approve with conditions, a conditional use permit for a state or regionally sponsored essential public facility. In addition to the criteria imposed by Chapter 15.18 CMC Part I Special and Conditional Use Permits, the conditional use permit for a state or regionally sponsored essential public facility shall ensure that: A. The proposal, as conditioned, adequately mitigates adverse impacts to life, limb, property, the environment, public health and safety, transportation system, economic development, and other identified impacts;

B. The proposal incorporates specific features to ensure that it is reasonably compatible with the existing or intended character, appearance, quality of development, and physical characteristics of the site and surrounding properties; and

C. Essential public facilities shall, to the extent reasonably practicable, be located and designed to minimize adverse impacts on nearby residential areas.

The provisions of this section shall not be construed as authorizing the preclusion of a state or regionally sponsored essential public facilities either through: (i) denial of a conditional use permit, or (ii) the imposition of conditions that would render the essential public facility impossible or impracticable.

15.120.060 Development agreements for essential public facilities.

At the mutual discretion of the city and the sponsor of an essential public facility, a development agreement negotiated, processed and executed in accordance with Chapter 36.70B RCW may be utilized for essential public facilities. The public hearing required for any such development agreement shall be separate from and additional to any public hearing associated with the conditional use permit for the essential public facility.

15.120.065 Federally sponsored facilities.

To the extent not preempted by applicable federal law, essential public facilities sponsored by a governmental agency or department of the United States shall be reviewed and processed in accordance with the standards and procedures for state and regionally sponsored essential public facilities under this chapter.

15.120.070 Modifications for development agreements.

The city council may approve a development agreement that creates exemptions or modifications to the requirements of this title to the extent necessary to avoid preclusion of an essential public facility.

15.120.080 Independent consultant review.

- A. The city planner may require independent consultant review of a proposed essential public facility in order to assess its compliance with the criteria contained in this chapter.
- B. If independent consultation is required, the sponsor shall follow the provisions of CMC 5.32.020, to provide for cost recovery of consultant costs.

15.120.090 Building permits.

Any building permit for an essential public facility approved under this chapter shall comply with all applicable conditions of approval in the conditional use permit.

15.120.100 Final decision timeframe for essential public facilities.

In accordance with RCW 36.70B.080, the City finds that essential public facilities inherently involve siting difficulties, implicate potentially significant community and environmental impacts, and warrant enhanced opportunities for public notice and comment. Based upon these findings, the City concludes that the standard 120 day final decision timeframe for most project permit types is inapplicable to applications for essential public facilities. The City instead hereby establishes 180 days, measured from the City's notice of complete application, as the timeframe within which a final notice of decision shall be issued with respect to an application for an essential public facility. The following shall be excluded from said 180 day period:

- 1. Any time during which the City is waiting for the applicant to provide information reasonably requested by the City;
- 2. Any time during which a SEPA EIS is being prepared, revised and/or issued with respect to the proposal;
- 3. Any time during which an administrative or judicial appeal involving any part of the proposal is ongoing; and
- 4. Any time agreed to or otherwise requested by the applicant.

15.120.110 List of essential public facilities.

The city hereby adopts by reference the list of categories of essential public facilities set forth in RCW 36.70A.200, together with the list of essential state facilities maintained by the state Office of Financial Management, including any future amendments or revisions thereto. The city further designates the following existing and/or planned facilities as essential public facilities for purposes of this chapter:

1. Carnation Wastewater Treatment Facility
2. State Route 203
3. Carnation Landfill
4. Carnation Vacuum Sewer station
5. Carnation Spring source watershed
6. Carnation well
7. Evacuation Trail
8. Carnation Water Storage facilities

Exhibit B

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“Essential public facility” means any public facility or facilities owned or operated by a unit of local or state government, public or private utility, transportation company, or any other entity that provides public services as its primary mission, and that is difficult to site. Essential public facilities shall include those facilities listed in RCW 36.70A.200, and any facility that appears on the list maintained by the Washington State Office of Financial Management under RCW 36.70A.200(4).

....

“Locally sponsored essential public facility” means any essential public facility that is proposed, operated, owned or otherwise sponsored by a proponent other than a state agency, a county, or another regional entity.

...

“State or regionally sponsored essential public facility” means any essential public facility that is proposed, operated, owned or otherwise sponsored by a state agency, a county, or another regional entity.

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Exhibit C

NAIC	NON-RESIDENTIAL USES	R2.5	R3 R4 R6	RMH P	R12	R24	CBD	HC	SC	MU	AGI	LJ/ M	PU	PR
...														
481	Air Transportation												C35	
	<u>Airport</u>												C35	
...	<u>State or regional transportation facilities as defined in RCW 47.06.140</u>												C35	
5622	Waste Treatment and Disposal												P	
	<u>Solid waste handling facilities</u>												C35	
...														
61	Educational Services													
	<u>State education facilities</u>								C35	C35			C35	
...														
6242	Social Assistance, including shelter.						C16/ 18			C14			P	
	<u>In-patient facilities including substance abuse facilities, mental health facilities, group homes</u>									C35			C35	
...														
922	Justice, Public Order, and Safety Activities												P	
92214	<u>Correctional Institutions, state and local</u>												C35	
	<u>Secure community transition facilities</u>												C3 5.3 6	C35. 36
...														

Nonresidential Uses Notes:

- 1 No permanent foundations allowed.
- 2 Minimum lot size one acre.
- 3 Separate entrances on two different streets, e.g., on corner lots.
- 4 Not allowed on parcels that front on Tolt Avenue.
- 5 Cottage type of housing only; maximum of 2 stories.
- 6 Microbrewery that is part of a food and drink establishment.
- 7 Blown and/or art glass as part of a gallery, or retail or educational establishment.
- 8 Ornamental metal products as part of a gallery, or retail or educational setting.
- 9 Manufacturing on an artisanal scale as part of a gallery, or retail or educational setting.
- 10 No unenclosed storage on-site.
- 11 No on-site propagation in greenhouses or external storage.
- 12 No on-site propagation in greenhouses.
- 13 Subject to master plan design review.
- 14 Hours of operation subject to restriction.
- 15 4,000 GSF maximum.
- 16 Office operations only.
- 17 All antenna subject to CMC 15.98.
- 18 May not be located on the ground floor along Tolt Avenue.
- 19 May not exceed 2,000 gsf.
- 20 All activities enclosed within structure.
- 21 Located above a permitted retail or food service use.
- 22 In conjunction with retail sales of food.
- 23 Must meet all requirements of CMC 15.98.
- 24 Must meet all requirements of CMC 15.44.100.
- 25 Drive-thru access not allowed from Tolt Avenue.
- 26 Must provide parking per CMC 15.72; no exemption for CBD.
- 27 Must comply with Design Standards for frontage and screening on Tolt Avenue.
- 28 Must meet all requirements of CMC 15.44.130.
- 29 All bins and open piles of soils, mulch, wood chips, bark dust, sand and similar materials shall be effectively contained thorough the use of appropriate confinement and/or treatment facilities such as to prevent any on-site and/or off-site migration of sediment from the pile or bin area.
- 30 Off-site tracking of sediment is prohibited.
- 31 May not be located within 1,000 feet of any elementary or secondary school, playground, recreation center or facility, child care center, public park, library, or any other uses set forth in WAC 314-55-045.

- 32 One off street parking space shall be required for each room for rent
- 33 No more than 4 rooms for rent per residence
- 34 Property owner must reside on the property
- 35 Subject to Chapter 15.120 Essential Public Facilities. Notwithstanding any provision of this Table, nothing herein shall be applied, interpreted, or enforced in a manner that unlawfully precludes the citing of essential public facilities.
36. Subject to RCW 71.09.285 Transition facility – Site policy guidelines.