



ORDINANCE NO. 3041

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ADOPTING FINDINGS OF FACT, ESTABLISHING INTERIM ZONING CONTROLS FOR MARIJUANA BUSINESSES, FACILITIES, AND LICENSES IN SINGLE FAMILY AND MULTIFAMILY RESIDENTIAL AREAS; PROVIDING A TERM OF SIX MONTHS, PROVIDING FOR A WORK PROGRAM FOR PERMANENT ZONING AND/OR LICENSING CONTROLS, DECLARING AN EMERGENCY, ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR SEVERABILITY.

WHEREAS, the City of Lynnwood has the authority to adopt interim zoning controls pursuant to RCW 35A.63.220 and RCW 36.70A.390; and

WHEREAS, on November 6, 2012, Initiative-502 was passed by the voters of the State of Washington, providing a framework under which marijuana producers, processors, and retailers can become licensed by the State of Washington; and

WHEREAS, Initiative 502 prohibits marijuana-related uses within 1,000 feet of the perimeter of certain uses and buildings, such as child care centers, public parks and recreation centers or facilities, but representatives of the Washington State Liquor Control Board (WSCLB) have confirmed that the zoning and business regulations of the local agency will not be a substantive factor in the issuance of licenses relating to marijuana; and

WHEREAS, the adoption of land use and zoning regulations is a valid exercise of the City's police power and is specifically authorized by RCW 35A.63.100; and

WHEREAS, RCW 69.51A.140, enacted as part of Washington's medical cannabis act, delegates authority to cities and towns to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements and business taxes related to marijuana production, processing, and dispensing as exercises of the City's police power and not necessarily limited to medical marijuana-related uses; and

WHEREAS, WAC 314-55-015(5) precludes the issuance of any marijuana license for a location where law enforcement access, without notice or cause, is limited and specifically references personal residences, but does not preclude the issuance of a marijuana license within residential areas; and

WHEREAS, the Lynnwood Municipal Code does not currently have specific provisions addressing of recreational marijuana or medical marijuana; and

WHEREAS, operations associated and resulting from a marijuana-related license can be expected to result in land use and other impacts equal to or greater than other commercial or industrial land uses; and

WHEREAS, direct and indirect impacts generated by marijuana-related businesses or activities may adversely impact sensitive land uses such as single family and multifamily residences, and poses a potential threat to the health, safety, and welfare of the persons and property in the residential area; and

WHEREAS, marijuana production, processing, and retailing uses must be addressed in the City's lands use code and/or business licensing regulations, but the land use and other impacts of these uses are still largely unknown and regulations that the City will need to address them are still uncertain; and

WHEREAS, unless the City acts immediately to address marijuana-related uses within residential areas, such uses may be authorized by the WSLCB to locate and operate within areas of Lynnwood where other commercial and industrial activities are prohibited by Lynnwood's zoning code and business license regulations; and

WHEREAS, on November 25, 2013, following public notice as required by applicable law, the City Council conducted a public hearing on this matter and all persons wishing to be heard were heard; and

WHEREAS, the City deems it in the public interest to impose interim zoning controls for a period of six months in order to investigate this issue further and to prepare permanent land use and/or business licensing controls in order to protect single family and multifamily neighborhoods from adverse impact;

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

Section 1. Findings of Fact. The City Council adopts the above recitals as findings of fact in support of its action as required by RCW 36.70A.390 and RCW 35A.63.220. The Council may adopt additional findings in the event that additional evidence is presented to the City Council.

Section 2. Interim Zoning Controls. The City hereby establishes the following interim zoning controls for the location and establishment of marijuana producers, processors, and retailers and marijuana collective gardens licensed by the State of Washington under Initiative No. 502 and the regulations promulgated thereto:

- A. For the purposes of these interim zoning controls, the definitions contained within RCW 69.50.101 and WAC 314-55-010 shall apply.
- B. Marijuana producers, processors, and retailers and marijuana collective gardens shall not be located in the following land use zones:
 - a. RS-8 – Residential 8400 Sq. Ft.
 - b. RS-7 – Residential 7200 Sq. Ft.
 - c. RS-4 – Residential 4000 Sq. Ft.
 - d. RML – Multiple Residential Low Density.
 - e. RMM – Multiple Residential Medium Density.
 - f. RMH – Multiple Residential High Density.
 - g. MHP – Mobile Home Park Overlay.
- C. Marijuana producers, processors, or retailers and marijuana collective gardens shall not operate as an accessory to a residential use or as a home occupation.

Section 3. No Non-Conforming Uses. No use that constitutes or purports to be a marijuana producer, marijuana processor, retailer or a collective garden, that was engaged in that activity prior to the enactment of this ordinance shall be deemed to have been a legally established use under the provisions of the Lynnwood Municipal Code and that uses shall not be entitled to claim legal non-conforming status.

Section 4. Duration. The interim zoning regulations established herein shall be in effect until six-months from the effective date of this Ordinance (to and through June 9, 2014), and shall automatically expire on that date unless repealed, modified, or extended after subsequent public hearing and entry of appropriate findings of fact as provided in RCW 35A.63.220 and RCW 36.70A.390.

Section 5. Work Program. The Director of Community Development and/or his designee is hereby authorized and directed to address issues related to marijuana licenses or facilities within single family or multifamily residential areas. The work program should also develop appropriate permanent land use regulations pursuant to the new state law and state licensing requirements for review and recommendation for inclusion in the zoning regulations or other provisions of the Lynnwood Municipal Code. Such regulations shall be presented to the Lynnwood Planning Commission and Lynnwood City Council for consideration and action in due course.

Section 6. Moratoria. The moratoria imposed in Ordinance No. 2998, which prohibits the filing and acceptance of land use, business license, or other applications for, and the licensing (including business licensing), establishment, location, operation, maintenance or continuation of marijuana businesses, or any other marijuana activities and operations asserted to be authorized or actually authorized under Initiative 502, and in Ordinance No. 2999, which prohibits the filing and acceptance of land use, business license, or other applications for, and the licensing (including business licensing), establishment, location, operation, maintenance or continuation of, any medical cannabis collective garden, is unaffected by the interim zoning regulations adopted in this Ordinance and shall remain in place until expiration.

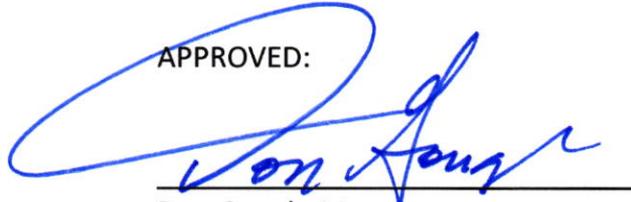
Section 7. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority vote plus one of the whole membership of the Council as required by RCW 35A.13.190. Without immediate interim zoning regulations on the establishment on such uses, development or use of a property may occur or attempt to become vested that is incompatible with the policies and regulations of the City of Lynnwood. Therefore, the interim zoning regulations must be imposed as an emergency measure to protect the public health, safety and welfare.

Section 8. Effective Date. This Ordinance shall take effect and be in full force and effect immediately upon passage, as set forth herein.

Section 9. 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.

PASSED BY THE CITY COUNCIL, the 9th day of December, 2013, and signed in authentication of its passage this 16th day of December, 2013.

APPROVED:



Don Gough, Mayor

ATTEST/AUTHENTICATED:



Lorenzo Hines Jr., Finance Director

APPROVED AS TO FORM:



Rosemary Larson, City Attorney

Filed with Administrative Services: 12/03/2013
Passed by Council: 12/09/2013
Published: 12/18/2013
Effective Date: 12/23/2013
Ordinance Number: 3041



On the 9th day of December, 2013, the City Council of the City of Lynnwood, Washington, passed Ordinance No. 3041. A summary of the content of said ordinance, consisting of the title, provides as follows:

ORDINANCE NO. 3041

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ADOPTING FINDINGS OF FACT, ESTABLISHING INTERIM ZONING CONTROLS FOR MARIJUANA BUSINESSES, FACILITIES, AND LICENSES IN SINGLE FAMILY AND MULTIFAMILY RESIDENTIAL AREAS; PROVIDING A TERM OF SIX MONTHS, PROVIDING FOR A WORK PROGRAM FOR PERMANENT ZONING AND/OR LICENSING CONTROLS, DECLARING AN EMERGENCY, ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR SEVERABILITY.

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

DATED this 15th day of December, 2013.



Lorenzo Hines, Finance Director



LYNNWOOD
WASHINGTON

CERTIFICATE

I, the undersigned, Lorenzo Hines Jr., the duly appointed 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. 3041 of the City of Lynnwood, Washington, entitled as follows:

ORDINANCE NO. 3041

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ADOPTING FINDINGS OF FACT, ESTABLISHING INTERIM ZONING CONTROLS FOR MARIJUANA BUSINESSES, FACILITIES, AND LICENSES IN SINGLE FAMILY AND MULTIFAMILY RESIDENTIAL AREAS; PROVIDING A TERM OF SIX MONTHS, PROVIDING FOR A WORK PROGRAM FOR PERMANENT ZONING AND/OR LICENSING CONTROLS, DECLARING AN EMERGENCY, ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR SEVERABILITY.

That said ordinance was passed by the Council on December 9, 2013 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 December 17, 2013.

Lorenzo Hines, Jr., City Clerk of the
City of Lynnwood, Washington