



LYNNWOOD
WASHINGTON

ORDINANCE NO. 3136

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, RELATING TO RECREATIONAL MARIJUANA PRODUCTION, PROCESSING, AND RETAIL SALES PURSUANT TO INITIATIVE 502, AND TO MEDICAL MARIJUANA COLLECTIVE GARDENS, AMENDING CHAPTER 21.02 LMC; ADDING NEW SECTIONS 21.42.103, 21.43.103, 21.44.103, 21.46.103, 21.50.103, 21.52.103, AND 21.71.180 TO THE LYNNWOOD MUNICIPAL CODE, AMENDING SECTIONS 21.48.100, 21.54.100, 21.56.100, 21.57.400, 21.58.300, 21.60.300, AND 21.62.210 OF THE LYNNWOOD MUNICIPAL CODE, REPEALING ORDINANCE NO, 2998, 2999, 3039, 3040, 3045, 3061, 3062, 3072, 3095, 3096 AND 3106; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

WHEREAS, since 1970, federal law has prohibited the manufacture, delivery and possession of marijuana as a Schedule I drug, based on the federal government's categorization of marijuana as having a "high potential" for abuse, lack of any accepted medical use, and absence of any accepted safety for use in medically supervised treatment," *Gonzales v. Raich*, 545 U.S. 1, 14 (2005), Controlled Substance Act (CSA)(84 Stat. 1242, 21 U.S.C. 801 et. seq.); and

WHEREAS, in 1988, the voters of Washington State approved Initiative 692 (I-692), codified as Chapter 69.51A RCW; and

WHEREAS, the intent of I-692 was that qualifying "patients with terminal or debilitating illnesses who, in the judgment of their physicians, would benefit from the medical use of marijuana, shall not be found guilty of a crime under state law," (RCW 69.51A.005), but that nothing in the law "shall be construed to supersede Washington State law prohibiting the acquisition, possession, manufacture, sale or use of marijuana for non-medical purposes" (RCW 68.51A.020); and

WHEREAS, in 2011, the Washington State Legislature passed ESSB 5073, which provides that a qualifying patient or his/her designated care provider are presumed to be in compliance, and not subject to state imposed criminal consequences, if they possess no more than 15 cannabis plants, nor more than 15 ounces of usable cannabis (other qualifications apply); and

WHEREAS, Washington's Governor vetoed all of the provisions in ESSB 5073 relevant to medical marijuana dispensaries, but left the provisions relating to cultivation of marijuana for medical use by qualified patients individually and in collective gardens; and

WHEREAS, the Governor's veto referenced the position of the United States Department of Justice and multiple United States Attorneys that state employees who license or assist marijuana operations in becoming licensed would not be immune from federal criminal liability for assisting the applicants or conspiring to assist the applicants to violate federal law; and

WHEREAS, the Governor's veto of the provisions in ESSB 5073 on the subject of medical marijuana dispensaries can be interpreted to mean that this use is prohibited by state law, and it is already prohibited under federal law; and

WHEREAS, RCW 69.51A.085 permits up to ten qualifying patients to share in the responsibility to plant, grow, and harvest up to forty-five marijuana plants that contain no more than twenty-four *usable* ounces per patient so long as no usable marijuana is delivered to anyone other than the (up to) ten qualifying patients that share responsibility for the "collective garden"; and

WHEREAS, throughout the State, businesses are known to call medical marijuana dispensaries "collective garden," despite the fact that they are operating a retail sales location with no on-site growing operation, have more than ten participating customers, and their participating customers do not share in the responsibility for planting, growing or harvesting the marijuana; and

WHEREAS, RCW 69.51A.140 expressly authorizes local jurisdictions to enact zoning requirements, business license requirements, and health and safety requirements for the production, processing and dispensing of cannabis and cannabis products; and

WHEREAS, the City code prevents the City from issuing a business license to any applicant unless the business and the applicant comply with all provisions of all applicable ordinances and laws (LMC 5.04.010(C). and the City shall revoke any business license where the licensee uses or occupies property, or conducts or operates businesses, in violation of any City, State or federal law (LMC 5.04.045); and

WHEREAS, because the manufacturing and delivery of marijuana is prohibited by federal law, the City code effectively prohibits the issuance of a business license by the City for any business that involves the manufacturing or delivery of marijuana; and

WHEREAS, the issuance of licenses that authorize businesses to engage in business that violates the federal CSA, could subject the City and/or its employees to criminal penalties under the CSA; and

WHEREAS, in November 2012, voters of Washington State approved Initiative 502 (I-502), which is codified in Chapters 46.04, 46.20, 46.61 and 69.50 RCW, and which authorizes the Washington State Liquor Control Board (LCB) to regulate and tax recreational marijuana for persons twenty-one years of age or older, and adds a new threshold for driving under the influence of marijuana; and

WHEREAS, I-502 required that the LCB establish a system for licensing marijuana producers, processors and marijuana retailers by December 1, 2013; and

WHEREAS, I-502 directs the LCB to develop rules and regulations to: (1) determine the number of producers, processors, and retailers of marijuana by county; (2) develop licensing and other regulatory measures; (3) issue licenses to producers, processors, and retailers at locations that comply with the Initiative's distancing requirements that prohibit such uses within one thousand feet of schools, daycares, public parks, libraries, and other designated facilities; and (4) establish a process for cities to comment prior to issuance of such licenses; and

WHEREAS, the LCB had adopted administrative rules for the licensing and regulation of marijuana producers, processors, and retailers, allowing for up to two (2) marijuana retail licenses may be issued in the City of Lynnwood; and

WHEREAS, the federal government, through the Department of Justice, issued a memorandum to United States Attorneys providing guidance regarding marijuana enforcement on August 29, 2013; while the memorandum indicates that enforcement of marijuana-related regulations in Washington should rest primarily with state and local law enforcement agencies, the memorandum also states that if robust measures are ineffective to guard against certain identified harms or in the event of reluctance on the part of the state to ensure against the occurrence of identified harms, the federal government reserves the right to enforce federal law despite the state's regulatory structure, and to challenge the state licensing structure itself; and

WHEREAS, in a joint statement dated August 29, 2013, Governor Jay Inslee and Attorney General Bob Ferguson stated the following:

"Today we receive confirmation Washington's voter-approved marijuana law will be implemented.

We received good news this morning when Attorney General Eric Holder told the governor the federal government would not preempt Washington and Colorado as the states implement a highly regulated market for marijuana,

Attorney General Holder made it clear that the federal government will continue to enforce the federal Controlled Substance Act by focusing its enforcement on eight specific concerns, including the prevention of distribution to minors and the importance of keeping Washington-grown marijuana within our state's borders;

We share those concerns and are confident our state initiative will be implemented as planned.

We want to thank the Attorney General for working with the states on this and for finding a way that allows our initiative to move forward while maintaining a commitment to fighting illegal drugs. This reflects a balanced approach by the federal government that respects the states' interests in implementing these laws and recognizes the federal government's role in fighting illegal drugs and criminal activity."; and

WHEREAS, in light of the passage of I-502 and statement from LCB, Department of Justice, Governor Inslee and Attorney General Bob Ferguson, the City has concluded that it is likely that the LCB will be issuing licenses for marijuana producers, marijuana processors, and marijuana retailers to operate in the City; and

WHEREAS, the City Council finds that there are likely harmful secondary effects associated with medical and recreational marijuana production, processing, distribution, and retail sales sites, which could include but are not limited to increased risk of invasion of such business facilities for purposes of theft resulting from the cash and marijuana maintained at these types of facilities; and

WHEREAS, such secondary effects could place Lynnwood residents, business owners, and others in danger of bodily harm, and will increase police enforcement risks and costs, and generally create undesirable liability exposure for the City; and

WHEREAS, in addition to concerns regarding land use compatibility, the City Council is also concerned about the secondary impacts from the establishment of facilities for the production, processing, distribution and retail sale of marijuana, including but not limited to, as negative health, safety, learning and life outcomes for Lynnwood residents; and

WHEREAS, marijuana use is on the rise. According to the U.S. Department of Health and Human Services 2012 National Survey on Drug Use and Health (NSDUH), 12 to 17 year old marijuana use for boys and girls combined was relatively unchanged since 2011, but there was a 20 percent increase in marijuana smokers among girls 12-17 since 2007, a 50 percent increase in the number of daily marijuana smokers among those aged 12 and up, a 12 percent increase in marijuana use among 18-25 year olds since 2007, and a 25 percent increase in marijuana use among the general population. (Substance Abuse and Mental Health Services Administration, *Results from the 2012 National Survey on Drug Use and Health: Summary of National Findings*, NSDUH Series H-46, HHS Publication No. (SMA) 13-4795, Rockville, MD: Substance Abuse and Mental Health Services Administration, 2013; and

WHEREAS, increased access and availability of supply is likely to increase the use of marijuana in the City, based on the experience in Colorado described on **Exhibit A**, attached hereto and incorporated by reference; and

WHEREAS, increased use of marijuana will have significant negative health, safety, learning and life outcome effects for the residents of the City as described in the sources listed on **Exhibit B**, attached hereto and incorporated by reference; and

WHEREAS, it is critical to the public safety and economic vitality of the City to ensure the impacts of businesses obtaining a license from LCB to produce, process, or retail recreational cannabis are minimized; and

WHEREAS, on January 16, 2014, the Attorney General of Washington issued AGO 2014 No. 2, which concluded that I-502 does not preempt local governments from licensing and regulating marijuana businesses, and that local governments may establish regulations that make it impractical for marijuana businesses to locate within their boundaries, as long as the regulations are a reasonable exercise of the police power; and

WHEREAS, on March 31, 2014, the Washington State Court of Appeals, Division I, issued its opinion in *Cannabis Action Coalition v. City of Kent*, holding the City of Kent's ordinance prohibiting medical marijuana collective gardens did not conflict with Washington's Medical Use of Cannabis Act; and

WHEREAS, in August 2014, the Pierce County Superior Court issued its decision in *MMH, LLC v. City of Fife*, holding that the City of Fife's ordinance prohibiting I-502 marijuana businesses within that city is a valid exercise of municipal police power zoning authority, in accordance with the January 16, 2014 Attorney General Opinion; and

WHEREAS, in October 2014, the Chelan Superior Court issued its decision in *SMP Retail LLC v. City of Wenatchee*, also holding that the City of Wenatchee's regulations which prohibit I-502 marijuana businesses within that city are a valid exercise of municipal police power authority, in accordance with the January 16, 2014 Attorney General Opinion; and

WHEREAS, both Superior Court decisions have been appealed to the pertinent Court of Appeals, but neither case has been set for hearing yet; and

WHEREAS, several other superior courts have issued decisions that follow the Attorney General Opinion, holding that cities have authority to prohibit I-502 marijuana businesses in the city; and

WHEREAS, I-502 does not curtail cities' legal authority to regulate business licenses and lands uses within the city, and further, the LCB's regulations do not include a process for determining whether a state license applicant's proposed use complies with local zoning and business license requirements; and

WHEREAS, as a result of the LCB regulation's silence as to local zoning and business license requirements, there is a risk that businesses will obtain state licenses to engage in marijuana related businesses within the City without regard to whether such businesses comply with City zoning and business license requirements; and

WHEREAS, although the City's zoning and business licensing requirements will continue to apply, the issuance of a conflicting state license could cause confusion and unnecessary expense if the City's laws do not explicitly address marijuana-related uses; and

WHEREAS, for the City to license marijuana businesses within the City while such activities violate federal law, the City would need to amend the City code to allow such licensing of activities that violate federal law; and

WHEREAS, issuance of a City business license to operate a business that violates the federal CSA within the City would be deemed by the federal government to be a violation of the CSA and potentially subject the City, and/or its employees, to liability or federal prosecution; and

WHEREAS, in 2005 in *Gonzales v. Raich*, 545 U.S. 1(2005), the United States Supreme Court determined that intrastate regulation of marijuana by the federal government is a valid exercise of the power of Congress and that in the event of a conflict between a state law that permits marijuana production, processing, distribution and possession and the federal CSA, the federal CSA will be deemed supreme; and therefore, it is unlikely that a court will determine that a state law can require a city to permit a land use or license a business that constitutes a crime under the federal CSA: and

WHEREAS, as a non-charter code city, Lynnwood has specific authority to determine the appropriate uses of land through its zoning authority; and

WHEREAS, I-502 contained no language specifically limiting the authority of cities to determine whether to permit marijuana business land uses within city boundaries, and the LCB regulations provide that the issuance of a state license shall not be construed as a license for, or an approval of, any violations of local rules or ordinances, including but not limited to, building and fire codes, zoning ordinances, and business licensing requirements; and

WHEREAS, the production, processing, and retail sale of marijuana, which remains illegal under federal law, has only recently become a permitted activity under Washington state law; Colorado is the only other state that permits the retail production, processing and sale of recreational marijuana, so the land use impacts associated with such uses have not been fully established and are not fully understood but medical marijuana businesses in this state and others are commonly associated increased crime, objectionable odors, and increased exposure of children to marijuana; and

WHEREAS, it is unknown whether the state of Washington's regulatory scheme for recreational marijuana will sufficiently protect the federal government's enforcement priorities so as to continue avoiding federal enforcement of the CSA against marijuana businesses and/or the state's regulatory scheme; and

WHEREAS, in accordance with the City's Comprehensive Plan, one of the City's key planning and economic development goals is to create pedestrian friendly commercial districts, and with the land use and other impacts of marijuana businesses and uses largely unknown, it is not in the best interest of the City to allow marijuana businesses and uses that could potentially disrupt the City's character and serve as a nuisance to the City's residents, property owners, and business owners; and

WHEREAS, although Chapter 5.04 LMC effectively prohibits any business operation or land use that involves producing, processing, or selling recreational marijuana, to avoid any room for differing interpretations, it is in the best interest of the City to expressly prohibit all marijuana related lands uses and businesses within the City; and

WHEREAS, the City Council finds that the health, safety, and welfare of the community is best served by prohibiting and production, processing, selling or delivery of marijuana; and

WHEREAS, on June 24, 2013, the City Council adopted a moratorium in the processing of licenses and permits for recreational marijuana operations (Ordinance No. 2998), which was subsequently extended on December 9, 2013 (Ordinance No. 3039), on May 27, 2014 (Ordinance No. 3061), and on December 8 2014 (Ordinance No. 3095); and

WHEREAS, on June 24, 2013, the City Council adopted a moratorium in the processing of licenses and permits for medical marijuana collective gardens (Ordinance No. 2999), which was subsequently extended on December 9, 2013 (Ordinance No. 3040), on May 27, 2014 (Ordinance No. 3062), and on December 8, 2014 (Ordinance No. 3096); and

WHEREAS, on February 24, 2014, the City Council adopted interim zoning controls prohibiting marijuana operations in single-family and multi-family zones (Ordinance No. 3045), on July 28, 2014, the City Council again adopted interim zoning controls prohibiting marijuana operations in single-family and multi-family zones (Ordinance No. 3072), and the interim controls were extended on February 9, 2015 (Ordinance 3106); and

WHEREAS, Ordinances No. 2998, 2999, 3039, 3040, 3045, 3061, 3062, 3072, 3095, 3096 and 3106, require formal action by the City Council to terminate the moratoriums and interim controls; and

WHEREAS, the ordinance is not intended to affect existing City, state and federal laws that apply to personal use and possession of marijuana; and

WHEREAS, on May 7, 2015 on the Community Development Director, acting as Lynnwood's State Environmental Policy Act (SEPA) Responsible Official, issued a threshold determination for this draft ordinance, which was not appealed; and

WHEREAS, on May 7, 2015 The State of Washington granted the City of Lynnwood expedited review for the: Proposed ordinance amends the city's zoning codes (for all zones) to

prohibit recreational marijuana retail sales, processing and production as well as prohibition of medical marijuana collective garden operations. This proposal was submitted for the required state agency review under RCW 36.70A.106.

WHEREAS, on May 28, 2015, the Planning Commission held a public hearing on a draft zoning ordinance; and

WHEREAS, on June 8, 2015, the City Council held a public hearing on the draft zoning ordinance; and

WHEREAS, the City Council after due consideration finds that the regulations contained in this ordinance are consistent with and implement the City's Comprehensive Plan, and are consistent with applicable state law, and will benefit the public health, safety and general welfare;

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

Section 1. Chapter 21.02, entitled "Definitions," of the Lynnwood Municipal Code, is amended to add new sections as follows, which shall be added to Chapter 21.02 in alphabetical order with the other sections in Chapter 21.02 being renumbered accordingly:

21.02. **Marijuana.** "Marijuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dried weight basis, the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

21.02. **Marijuana concentrates.** "Marijuana concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant Cannabis and having a THC concentration greater than sixty (60) percent. The term "Marijuana concentrates" does not include useable marijuana or marijuana-infused products.

21.02. **Marijuana processing.** "Marijuana processing" means a person, entity or other business, licensed by the Washington State Liquor Control Board, processing marijuana into useable marijuana and/or marijuana-infused products, and/or packaging and labeling useable marijuana and/or marijuana-infused products for sale in retail outlets, and/or selling useable marijuana and marijuana-infused products at wholesale to marijuana retailers

21.02. **Marijuana producing or production.** “Marijuana producing” or “marijuana production” means a person, entity or other business, licensed by the Washington State Liquor Control Board, producing and/or selling marijuana at wholesale to marijuana processors and other marijuana producers.

21.02. **Marijuana-infused products.** “Marijuana infused products” means products that contain marijuana or marijuana extracts, are intended for human use, and have a THC concentration greater than 0.3 percent and no greater than sixty (60) percent. The term “marijuana-infused products” does not include useable marijuana, marijuana concentrates.

21.02. **Marijuana retailing or marijuana retailer.** “Marijuana retailing” or “marijuana retailer” means a business, licensed by the Washington State Liquor Control Board, selling useable marijuana, marijuana concentrates, and/or marijuana-infused products in a retail outlet.

21.02. **Marijuana, useable.** “Marijuana useable” (or “useable marijuana”) means dried marijuana flowers. The term “Marijuana, useable” does not include either marijuana concentrates or marijuana-infused products.

21.02. **Medical marijuana collective garden.** “Medical marijuana collective garden” means the growing of medical cannabis by qualifying patients as provided in Chapter 69.51A RCW, as new existing or as hereafter amended. A medical marijuana collective garden may also include ancillary processing and distribution of medical cannabis to support the collective garden.

Section 2. A new section 21.42.103 is added to the Lynnwood Municipal Code to read as follows:

21.42.103 Uses prohibited in the single-family residential zones

- A. Retail sales, production and processing of marijuana and/or marijuana-infused products.
- B. Medical marijuana collective gardens, as either a primary use, accessory use, or home occupation.

Section 3. A new section 21.43.103 is added to the Lynnwood Municipal Code to read as follows:

21.43.103 Uses prohibited in the multiple-family residential zones

- A. Retail sales, production and processing of marijuana and/or marijuana-infused products.
- B. Medical marijuana collective gardens, as either a primary use , accessory use, or home occupation.

Section 4. A new section 21.44.103 is added to the Lynnwood Municipal Code to read as follows:

21.44.103 Uses prohibited in the Public zones

- A. Retail sales, production and processing of marijuana and/or marijuana-infused products.
- B. Medical marijuana collective gardens.

Section 5. A new section 21.46.103 is added to the Lynnwood Municipal Code to read as follows:

21.46.103 Uses prohibited in the Commercial zones

- A. Retail sales, production and processing of marijuana and/or marijuana-infused products.
- B. Medical marijuana collective gardens.

Section 6. Section 21.48.100 of the Lynnwood Municipal Code is amended to read as follows:

21.48.100 Permitted uses.

- A. All uses permitted in the Neighborhood Commercial (B-3) and Community Business (B-1) zones are permitted in this classification, except for the following:
 - 1. Outdoor used automobile sales;
 - 2. Funeral parlors and mortuaries; ~~and~~
 - 3. Self-service storage facilities;
 - 4. Marijuana and marijuana-infused products retail sales, processing and production.
 - 5. Medical marijuana collective gardens.

Section 7. A new section 21.50.103 is added to the Lynnwood Municipal Code to read as follows:

21.50.103 Uses prohibited in the Industrial zones

- A. Retail sales, production and processing of marijuana and/or marijuana-infused products.
- B. Medical marijuana collective gardens.

Section 8. A new section 21.52.103 is added to the Lynnwood Municipal Code to read as follows:

21.52.103 Uses prohibited in the Mixed Use/Business zone

- A. Retail sales, production and processing of marijuana and/or marijuana-infused products.
- B. Medical marijuana collective gardens.

Section 9. Section 21.54.100 of the Lynnwood Municipal Code is amended to read as follows:

21.54.100 Land Use.

A. Commercial Uses. Except as specifically stated otherwise in this section, all land use permitted "by right" in the B-1 (Community Business) zone are permitted "by right" in this zone. All land uses permitted with approval of a conditional use permit in the B-1 (Community Business) zone are permitted with approval of a conditional use permit in this zone. All limitations on those land uses (reference LMC 21.46.110 through 21.46.119) shall apply in this zone, except as modified by the regulations in this chapter.

B. Residential Uses. Multifamily residential uses are permitted, provided, the multifamily residential use is part of a mixed-use building or is on property that has commercial uses. Multifamily: residential development without commercial uses on the property shall not be permitted.

C. Conditional Uses. Notwithstanding the regulations of the B-1 zone, the following uses are permitted in this zone with approval of a conditional use permit:

1. Convenience store.
2. Drive-in or drive-through window or any other facility that provides services to customers in vehicles.
3. Church.
4. Home improvement stores.
5. Carpeting or floor covering stores.
6. Furniture stores.
7. Battery exchange station (electric vehicle).

D. Prohibited Uses. Notwithstanding subsections (A) and (B) of this section, the following uses are prohibited in this zone:

1. Vehicle display, sales, rental, repair, washing, or servicing as a principal use except that:
 - a. Retail sales of new automobile tires, batteries and other motor vehicle accessories and installation thereof within a completely enclosed building; and
 - b. Retail sale of automobile and recreational vehicle fuels (but without repairs or servicing) when accessory to an otherwise permitted retail use over 50,000 square feet GFA.
2. Gas or service stations as a principal use.
3. Dry cleaning plants.
4. Appliance or small engine repair.
5. Self-service storage or cold storage lockers.
6. Agricultural and horticultural activities (including plant nurseries). Florist shops are permitted.
7. Marijuana and marijuana-infused products retail sales, processing or production.
8. Medical marijuana collective gardens.

Section 10. Section 21.56.100 of the Lynnwood Municipal Code is amended to read as follows:

21.56.100 Land Use

- A. Permitted Uses. As stated by the regulations for the underlying zones.
- B. Conditional Uses. As stated by the regulations for the underlying zone. Except that where the underlying zone allows the following uses, these uses should be allowed only with approval of a conditional use permit.
 - 1. Drive-through or drive-up windows or any other facility that provides service to customers in cars.
 - 2. Handball courts, racquet clubs and indoor and outdoor tennis courts (except that these uses are permitted as accessory uses as part of private recreation facilities at multiple-family residential developments).
 - 3. Convenience stores.
 - 4. Park-and-ride lots operated by a public agency.
 - 5. The repair, improvement or expansion of gas stations existing as of the date of the ordinance codified in this chapter.
- C. Prohibited Uses. The following uses shall be prohibited in this overlay zone:
 - 1. Automotive uses (see Table 21.46.01), except as noted under subsection (A) and (B) of this section.
 - 2. Indoor amusement enterprises and amusement centers.
 - 3. Dry cleaning and laundry plants.
 - 4. Appliance stores, furniture stores and carpet stores.
 - 5. Cold storage lockers.
 - 6. Radio or television stations.
 - 7. Marijuana and marijuana-infused products retail sales, processing or production.
 - 8. Medical marijuana collective gardens.

Section 11. Section 21.57.400 of the Lynnwood Municipal Code is amended to read as follows:

21.57.400 Land uses.

- A. Principal Uses Permitted Outright
 - 1. College and university buildings, support services and college accessory facilities.
 - 2. Library.
 - 3. Public transit facilities.
 - 4. Conference or community center (college/community meetings and activities).
 - 5. Tot lot, greenway, vest pocket park, bikeway and other park/open space linkages.
 - 6. Retail store or service business under 4,000 square feet GFA, including, but not limited to:
 - a. Convenience, drug or variety store;
 - b. Books, magazines, stationery and school supplies;
 - c. Child day-care center (fewer than 13 children)
 - d. Art gallery, art or photo studio, film/photo processing;

- e. Art supplies store or frame shop;
 - f. Professional services (engineering, legal, medical, financial and similar);
 - g. Business services (bookkeeping, taxes, accounting management, etc.);
 - h. Computer repair, maintenance and training, and related technical services;
 - i. Personal services (grooming, photo processing, counseling, tutoring, etc.
 - j. Laundry self-service and pick-up station;
 - k. Shoe repair, tailoring, locksmith and similar personal services;
7. Movie theater (single-screen at neighborhood scale).
 8. Medical offices or clinic (limited services to neighborhood and/or college).
 9. Food and beverage service businesses under 2,000 square feet GFA, including:
 - a. Donut shop, bakery or similar specialty food outlet
 - b. Café, coffee shop or restaurant;
 - c. Soda fountain, ice cream parlor, candy store;
 - d. Delicatessen or other specialty food store;
 - e. Tavern, brew pub or nightclub.
 10. Multiple-family dwellings:
 - a. Maximum density: 20 units per net acre;
 - b. Minimum density: 12 units per net acre;
 - c. Density may be less than minimum if residential units are combined with other uses in same building or on same lot.
 11. Accessory parking lots and structures. Park-n-ride and park-n-pool facilities are not permitted. Student/faculty parking shall be located west of 68th Avenue.
 12. Electric vehicle charging station, Level 1, Level 2 and Level 3, if accessory to a permitted use or conditionally permitted use.
- B. Principal Uses Allowed by Conditional Use Permit**
1. Tavern, brew pub, club or restaurant that serves alcohol – when within or adjacent to a structure that also contains residences or child care facilities.
 2. Indoor amusements such as arcades, bowling, pool card rooms, etc.
 3. Athletic club or health spa (indoor facilities).
 4. Performing arts facilities.
 5. Child-day-care center (13 or more children) per LMC 21.42.110(E);
 6. Boarding house, dormitory or other group residential facilities suitable for students

7. Inn, hotel, or similar transient lodgings (20 accommodations or less).
 8. Battery exchange station (electric vehicle), and only if accessory to a permitted or conditionally approved use.
- C. Allowed Accessory Uses. Accessory uses are permitted per LMC 21.58.300, including
1. Child care – when serving the patrons or employees of a principal use.
 2. Commercial food services – in public buildings.
 3. Food Vendors – in outdoor public spaces, subject to city permits.
- D. Prohibited Uses
1. Marijuana and marijuana-infused products retail sales, processing or production.
 2. Medical marijuana collective gardens.

Section 12. Section 21.58.300 of the Lynnwood Municipal Code is amended to read as follows:

21.58.300 Land Use

- A. Land uses shall be permitted as specified in the provisions of the underlying zones within the college district, unless specifically prohibited, restricted or modified through the provisions of this overlay zone or the Citywide Design Guidelines.
- B. Principal and Conditional Uses. The provisions of the underlying zones shall determine the allowed uses and how they are permitted, except that the following uses are prohibited unless their sites have frontage on and access to either 196th Street or Highway 99:
1. Gas stations, car washes, auto parts stores, auto repair and maintenance and similar auto related uses that are typically highway-oriented have a service area that extends well beyond the college district, and that would bring unnecessary commercial traffic into the neighborhood
- C. Accessory Uses. Uses and structures that meet the city zoning code’s definition of “accessory” shall be permitted within the zones of the college district, except that accessory uses may not be added to existing nonconforming uses.
- D. Prohibited Uses. The following uses are prohibited in the underlying zones within the college district
1. Marijuana and marijuana-infused products retail sales, processing or production.
 2. Medical marijuana collective gardens.

Section 13. Section 21.60.300 of the Lynnwood Municipal Code is amended to read as follows:

21.60.300 Use limitations.

All uses shall be allowed in the city center zones unless specifically prohibited below:

- A. Prohibited in all city center zones

1. Adult establishments;
2. Billboards.;
3. Industrial uses (excluding management, research and development, and sales operations).
4. Outdoor storage or display of materials and equipment (except during construction) except as provided for in subsection (A)(10) of this section.
5. Auto-oriented uses, including:
 - a. Vehicle washing;
 - b. Drive-throughs, including drive-up windows and drive-up kiosks;
 - c. Vehicle repair.
 - d. Battery exchange station (electric vehicles);
 - e. Battery charging station (electric vehicle), Level 1, Level 2 or Level 3 (unless contained within an enclosed parking structure or attached to the exterior of a building containing a principal use);
 - f. Gasoline service stations;
 - g. Rental car agencies with outdoor fleet;
 - h. Outdoor sales of boats, vehicles, or equipment;
6. Sewage treatment plants;
7. Work release facilities;
8. Wrecking yards;
9. Secure community transition facilities;
10. Uses not contained within a building except:
 - a. Accessory outdoor dining;
 - b. Accessory outdoor display of merchandise up to a maximum of 200 square feet and where the display only occurs during business hours;
 - c. Temporary special events;
 - d. Accessory outdoor recreation areas, in an amount not greater than the gross floor area of the principal use it serves, not to exceed half an acre;
11. Self-service storage facilities (also known as mini-storage) consisting of more than 20 percent of the building's total gross floor area;
12. Marijuana and marijuana-infused products retail sales, processing or production.
13. Medical marijuana collective gardens.
14. Any other uses similar to those listed above or any other use determined by the community development director to be inconsistent with the intent of the city center zones as described in this chapter and the city center subarea plan. Appeals of the

community development director's decision shall be processed as a Process II application (LMC 1.35.200).

- B. Additionally, prohibited in the portion of the city center – core zone (CC-C) that is north of 194th ST. SW:
 - 1. Multiple-family residential
- C. Ground floor principal uses in all city center zones shall be occupiable space.
 - 1. Exception. Parking may occupy the ground floor of a building; provided that the parking does not occupy ground floor space facing a street frontage. In such instances, that portion of the building facing the street shall consist of occupiable space.
- D. For buildings that directly front the Promenade Street, no less than 40 percent of the lineal frontage of any building shall be street level retail uses.

Section 14. Section 21.62.210 of the Lynnwood Municipal Code is amended to read as follows:

21.62.210 Prohibited uses.

Uses not listed above as permitted outright or allowed by conditional use permit, or allowed as an accessory use to a permitted primary use, are prohibited in this zone. Notwithstanding any provision above, the uses listed below are specifically prohibited:

- A. Drive-up of drive-through service and/or window that does not meet the requirements of LMC 21.62.200(A)(10).
- B. Auto-oriented commercial uses including, but not limited to:
 - 1. Gas stations;
 - 2. Auto-repair, auto service shops, or the like;
 - 3. Auto wrecking, recycling businesses and/or yards;
 - 4. Car washes; and
 - 5. New auto dealerships (new and/or used vehicles), except as provided in LMC 21.62.200(A)(9);
- C. Adult establishments and adult retail uses.
- D. Industrial uses.
- E. Warehouses, mini-warehouses, self-storage, mini-storage and the like.
- F. Park-n-ride and park-n-pool lots or facilities.
- G. Freestanding wireless communications towers and support structures (attached wireless facilities are permitted; see LMC 21.62.200).
- H. Marijuana and marijuana-infused products retail sales, processing or production.
- I. Medical marijuana collective gardens.

Section 15. A new section 21.71.180 is added to the Lynnwood Municipal Code to read as follows:

- 21.71.180 Uses prohibited in the Mobile Home Park zone
- A. Retail sales, production and processing of marijuana and/or marijuana-infused products.
 - B. Medical marijuana collective gardens.

Section 16 Repealer. Ordinances No. 2998, 2999, 3039, 3040, 3045, 3061, 3062, 3072, 3095, 3096 and 3106 are hereby repealed.

Section 17. 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 18. This Ordinance shall take effect and be in full force and effect immediately upon passage, as set forth herein.

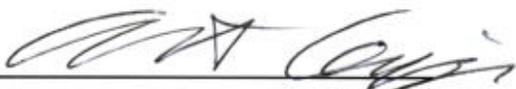
PASSED THIS 8th day of June, 2015, and signed in authentication of its passage this 15th day of June, 2015.

APPROVED:



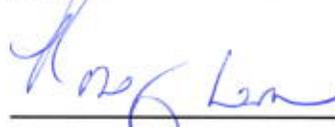
Nicola Smith, Mayor

ATTEST/AUTHENTICATED:



Art Ceniza, Interim Finance Director/
City Clerk

APPROVED AS TO FORM"



Rosemary Larson, City Attorney

FILED WITH ADMINISTRATIVE SERVICES: 06/15/2015
PASSED BY THE CITY COUNCIL: 06/08/2015
PUBLISHED: 06/18/2015
EFFECTIVE DATE: 06/08/2015
ORDINANCE NUMBER: 3136

EXHIBIT A

1. There has been an increase in drug-related referrals for high school students testing positive for marijuana following de facto legalization in Colorado and the expansion of accessible retail marijuana storefronts/dispensaries and the accompanying growth in the marijuana market. During 2007-2009, an average of 5.6 students tested positive for marijuana. During 2010-2012, the average number of students who tested positive for marijuana increased to 17.3 students per year. In 2007, tests positive for marijuana made up 33 percent of the total drug screenings; by 2012, that number increased to 57 percent. A member of the Colorado Taskforce charged to regulate marijuana who also works for a drug testing company commented to the press that "A typical kid (is) between 50 and 100 nanograms. Now we're seeing these up in the 500, 700, 800, climbing." (Rocky Mountain HIDTA. (August, 2013). *The Legalization of Marijuana in Colorado: The Impact, Preliminary Report* (volume 1): See Conspire! Drug Testing Results and "Drug Testing Sees Spike in Children Using Marijuana" found at <http://denver.cbslocal.com/2013/03/06/drug-testing-company-sees-spike-inchildren-using-marijuana/>).
2. In Colorado during the expansion period for marijuana storefronts/dispensaries, though traffic fatalities fell 16 percent between 2006 and 2011 (consistent with national trends), fatalities involving drivers testing positive for marijuana rose 112 percent. (Colorado Department of Transportation Drugged Driving Statistics 2006-2011, Retrieved <http://coloradodot.info/programs/alcohol-and-impaired-driving/drugged-driving/drugged-driving-statistics.html>).

EXHIBIT B

1. Scientists from the American Medical Association, American Academy of Pediatrics, American Psychological Association, and American Society of Addiction Medicine state that marijuana use is harmful for young people. (American Medical Association. (2009). *Report 3 on the Council of Science and Public Health: Use of Cannabis for Medicinal Purposes*; Joffe, E. & Yancy, W.S. (2004). *Legalization of Marijuana: Potential impact on youth. Pediatrics: Official Journal of the American Academy of Pediatrics*. 113(6); American Psychological Association. (2009). *Position Statement on Adolescent Substance Abuse*; California Society of Addiction Medicine. (2009). *Impact of Marijuana on Children and Adolescents: American Society of Addiction Medicine Statement*. Retrieved here: <http://www.asa.org/advocacy/find-a-policy-statement/view-policy-statement/public-policy-statements/2012/07/03/state-level-proposals-to-legalize-marijuana>);
2. According to the National Institutes of Health, one out of every six adolescents who use marijuana will become addicted. (Anthony, J.C., Warner, L.A., Kessler, R.C. (1994). *Comparative epidemiology of dependence on tobacco, alcohol, controlled substances, and inhalants: Basic findings from the National Comorbidity Survey. Experiential and Clinical Psychopharmacology*. 2);
3. There are approximately 400,000 emergency room admissions for marijuana every year – related to acute panic attacks and psychotic episodes. (Substance Abuse and Mental Health Services Administration, Center for Behavioral Health Statistics and Quality. (2011). *Drug abuse warning network. 2008.: National estimates of drug-related emergency department visits*. HHS Publication No. SMA. 11-4618. Rockville. MD);
4. Marijuana is the most cited drug for teens entering treatment. (Substance Abuse and Mental Health Services Administration. Center for Behavioral Health Statistics and Quality. *Treatment Episode Data Set (TEDS): 2000-2010. National Admissions to Substance Abuse Treatment Services. DASIS Series S-61. HHS Publication No. (SMA) 12-4701. Rockville, MD>*: Substance Abuse and Mental Health Services Administration, (2012);
5. Marijuana use, especially among young people, is significantly associated with reduction in IQ. (See Meier, M.H.; Caspi, A.; Ambler, A.; Harrington, H.; Houts, R.; Keefe, R.S.E.; McDonald, K.; Ward, A.; Poulton, R.; and Moffitt, T. *Persistent cannabis users show neuropsychological decline from childhood to midlife. Proceedings of the National Academy of Sciences* 109(40): E2657-E2664. 2012. Also Moffitt, T.E.; Meier, M.H.; Caspi, A.; and Poulton, R. *Reply to Rogeberg and Daly: No evidence that socioeconomic status or personality differences confound the association between cannabis use and IQ decline. Proceedings of the National Academy of Sciences* 110(11): E980-982. 2013);
6. Marijuana use, especially among young people, is significantly associated with mental illness. (See for example: Andreasson, S., et al (1987). *Cannabis and Schizophrenia: A longitudinal study of Swedish conscripts. Lancet* 2 (8574)); Moore, T.H., et al (2007);

Cannabis use and risk of psychotic or affective mental health outcomes; a systematic review. *Lancet*. 370(9584): Large, M., et al. (2011). Cannabis Use and Earlier Onset of Psychosis: A Systematic Meta-analysis. *Archives of General Psychiatry*. 68(6): Harley, M., et. al. (2010). Cannabis use and childhood trauma interact additively to increase risk of psychotic symptoms in adolescences. *Psychological Medicine*. 40(10); Lynch, M.J., et. al. (2012). The Cannabis-Psychosis Link. *Psychiatric Times*);

7. Marijuana use, especially among young people, is significantly associated with poor learning outcomes. (Yucel, M., et. al. (2008). Regional brain abnormalities associated with long-term heavy cannabis use. *Archives of General Psychiatry*, 65(6));
8. Marijuana use, especially among young people, is significantly associated with lung damage. See for example: American Lung Association. (2012, November 27). Health Hazards of Smoking Marijuana. Retrieved from <http://www.lung.org/stop-smoking/about-smoking/health-effects/marijuanasmoke.html>; Tashkin, D.P., et. al. (2002). Respiratory and immunologic consequences of smoking marijuana. *Journal of Clinical Pharmacology*. 4(11); Moore, B.A., et. al. (2005). Respiratory effects of marijuana and tobacco use in a U.S. sample. *Journal of General Internal Medicine*, 20(1); Tetrault, J.M., et. al. (2007). Effects of marijuana smoking on pulmonary structure, function and symptoms. *Thorax*. 62(12); Tan, W.C., et. al. (2009). Marijuana and chronic obstructive lung disease;
9. Marijuana use, especially young people, is significantly associated with addiction, (See for example: Anthony, J.C., Warner, L.A., Kessler, R.C. (1994). Comparative epidemiology of dependence on tobacco, alcohol, controlled substances, and inhalants: Basic findings from the National Comorbidity Survey. *Experiential and Clinical Psychopharmacology*. 2: Budney, A.J., et. al. (2008). Comparison of cannabis and tobacco withdrawal: Severity and contributions to relapse. *Journal of Substance Abuse Treatment*. 35(4); Tanda, G., et. al. (2003). Cannabinoids: Reward, dependence, and underlying neurochemical mechanisms – A recent preclinical data. *Psychopharmacology*. 169(2));
10. Drivers who test positive for marijuana or self – report using marijuana more than twice as likely as other drivers to be involved in motor vehicle crashes. (Mu-Chen, L.I., Joanne E. Brady, Charles J. DiMaggio, Arielle R. Lusardi, Keane Y. Tzong, and Guohua Li. (2011). "Marijuana Use and Motor Vehicle Crashes." *Epidemiologic Reviews*).
11. Creating barriers to the use of marijuana is an important tool for promoting public health. Due to federal, state and local efforts to control the distribution of marijuana, its use is lower than the use of legal drugs. About 52 percent of Americans regularly drink. 27 percent use tobacco products, and yet only 8 percent currently use marijuana. Substance Abuse and Mental Health Services Administration. Results from the 2012 National Survey on Drug Use and Health: Summary of National Findings, NSDUH Series H-46. HHS Publication No. (SMA) 13-4795. Rockville, MD: Substance Abuse and Mental Health Services Administration. (2013).



LYNNWOOD
WASHINGTON

On the, 8th day of June, 2015 the City Council of the City of Lynnwood, Washington, passed ordinance 3136. A summary of the content of these ordinances, consisting of the title, provides as follows:

ORDINANCE NO. 3136

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, RELATING TO RECREATIONAL MARIJUANA PRODUCTION, PROCESSING, AND RETAIL SALES PURSUANT TO INITIATIVE 502, AND TO MEDICAL MARIJUANA COLLECTIVE GARDENS, AMENDING CHAPTER 21.02 LMC; ADDING NEW SECTIONS 21.42.103, 21.43.103, 21.44.103, 21.46.103, 21.50.103, 21.52.103, AND 21.71.180 TO THE LYNNWOOD MUNICIPAL CODE, AMENDING SECTIONS 21.48.100, 21.54.100, 21.56.100, 21.57.400, 21.58.300, 21.60.300, AND 21.62.210 OF THE LYNNWOOD MUNICIPAL CODE, REPEALING ORDINANCE NO, 2998, 2999, 3039, 3040, 3045, 3061, 3062, 3072, 3095, 3096 AND 3106; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

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

DATED this 18th day of June, 2015.

D. Karber

Debbie Karber, Deputy City Clerk

LYNNWOOD
WASHINGTON

CITY OF LYNNWOOD

On the, 8th day of June, 2015 the City Council of the City of Lynnwood, Washington, passed ordinances: 3136 through 3139. A summary of the content of these ordinances, consisting of the title, provides as follows:

ORDINANCE NO. 3136
AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, RELATING TO RECREATIONAL MARIJUANA PRODUCTION, PROCESSING, AND RETAIL SALES PURSUANT TO INITIATIVE 502, AND TO MEDICAL MARIJUANA COLLECTIVE GARDENS, AMENDING CHAPTER 21.02 LMC; ADDING NEW SECTIONS 21.42.103, 21.43.103, 21.44.103, 21.46.103, 21.50.103, 21.52.103, AND 21.71.180 TO THE LYNNWOOD MUNICIPAL CODE, AMENDING SECTIONS 21.48.100, 21.54.100, 21.56.100, 21.57.400, 21.58.300, 21.60.300, AND 21.62.210 OF THE LYNNWOOD MUNICIPAL CODE, REPEALING ORDINANCE NO. 2998, 2999, 3039, 3040, 3045, 3061, 3062, 3072, 3095, 3096 AND 3106; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

ORDINANCE NO. 3137
AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, SUPERSEDING ORDINANCE 3015, ESTABLISHING PROJECT FUNDING FOR THE CITYWIDE SAFETY IMPROVEMENT PROJECT; AN ORDINANCE AUTHORIZING EXPENDITURES IN PROJECT FUND 331; AND AUTHORIZING FUNDING ALLOCATIONS, AND REIMBURSEMENTS FROM GRANT FUNDS 356; AND AUTHORIZING PROJECT EXPENDITURES IN PROJECT FUND 356; AND CONSISTENT WITH THE PROJECT FINANCIAL PLAN; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

ORDINANCE NO. 3138
AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, RELATING TO COMPENSATION FOR CITY EMPLOYEES; AMENDING SECTION 2.48.185 OF THE LYNNWOOD MUNICIPAL CODE; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND FOR SUMMARY PUBLICATION.

ORDINANCE NO. 3139
AN ORDINANCE SUPERSEDING ORDINANCE #3001, AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ESTABLISHING FUNDING FOR THE NEW ERP SYSTEM AND AUTHORIZING EXPENDITURES IN THE GENERAL FUND 011; UTILITY FUND 411 AND HARDWARE/SOFTWARE CAPITAL PROJECTS; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

The full text of this ordinance will be mailed upon request. DATED this 18th day of June, 2015.

Ad Ceniza Acting as City Clerk
Published: June 18, 2015. EDH640091



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. 3136 of the City of Lynnwood, Washington, entitled as follows:

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, RELATING TO RECREATIONAL MARIJUANA PRODUCTION, PROCESSING, AND RETAIL SALES PURSUANT TO INITIATIVE 502, AND TO MEDICAL MARIJUANA COLLECTIVE GARDENS, AMENDING CHAPTER 21.02 LMC; ADDING NEW SECTIONS 21.42.103, 21.43.103, 21.44.103, 21.46.103, 21.50.103, 21.52.103, AND 21.71.180 TO THE LYNNWOOD MUNICIPAL CODE, AMENDING SECTIONS 21.48.100, 21.54.100, 21.56.100, 21.57.400, 21.58.300, 21.60.300, AND 21.62.210 OF THE LYNNWOOD MUNICIPAL CODE, REPEALING ORDINANCE NO, 2998, 2999, 3039, 3040, 3045, 3061, 3062, 3072, 3095, 3096 AND 3106; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

That said ordinance was passed by the Council on June 8, 2015 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 June 18, 2015.

Debra Karber, Deputy City Clerk