



ORDINANCE NO. 3305

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, IMPOSING LAND USE CONTROLS TO PROHIBIT SUPERVISED DRUG CONSUMPTION FACILITIES, SAFE INJECTION SITES AND OTHER USES OR ACTIVITIES DESIGNED TO PROVIDE A LOCATION FOR PERSONS TO CONSUME ILLICIT DRUGS; ADDING A NEW SECTION 21.02.744 TO THE LYNNWOOD MUNICIPAL CODE; AMENDING LMC 21.42.103, 21.43.103, 21.44.103, 21.46.103, 21.48.100, 21.50.103, 21.54.100D, 21.56.100C, 21.57.300B, 21.60.300A, 21.62.210 AND 21.71.180; REPEALING ORDINANCES 3284 AND 3302; AND PROVIDING FOR AN EFFECTIVE DATE, SEVERABILITY AND SUMMARY PUBLICATION.

WHEREAS, in March 2016, King County and the cities of Seattle, Renton, and Auburn convened the Heroin and Opioid Addiction Task Force to study and make recommendations on the best methods to prevent and treat opioid addiction and the related issues surrounding such addiction; and

WHEREAS, in September 2016, the Heroin and Opioid Addiction Task Force issued a report with recommendations for a comprehensive strategy focusing on prevention and increasing access to addiction treatment on demand, to prevent such addiction and improve opioid use disorder outcomes in King County; and

WHEREAS, one Task Force recommendation was to establish, on a pilot program basis, at least two sites for supervised drug consumption facilities, referred to in the Task Force report as "Community Health Engagement Locations" (safe injection sites); and

WHEREAS, in January 2017, the King County Executive and Seattle Mayor announced that they would move forward on the complete set of recommendations including the establishment of Community Health Engagement Locations (safe injection sites); and

WHEREAS, in June 2017, the King County Council voted to limit establishment of Community Health Engagement Locations to those cities whose elected leaders choose to locate these facilities in their communities; and

40 WHEREAS, in response to the action of the King County Council, a number of cities located
41 in King County have adopted moratoria and/or official land use controls that prohibit the siting
42 of Community Health Engagement Locations within their jurisdictions, or have otherwise passed
43 resolutions opposing the siting of such facilities within their boundaries; and
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45 WHEREAS, on September 25, 2017, the Snohomish County Council adopted Ordinance
46 No. 17-081, adopting emergency interim official land use controls that prohibit the siting of
47 supervised drug consumption facilities in unincorporated Snohomish County on a temporary
48 basis while the County studies the impacts and considers appropriate regulations and location
49 for such facilities; and
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51 WHEREAS, on November 20, 2017, the Snohomish County Council held a public hearing
52 on the interim official controls, and after hearing the public testimony determined to have the
53 interim official controls remain in effect; and
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55 WHEREAS, at least two other Snohomish County cities have adopted moratoria or interim
56 official land use controls to prohibit the location of supervised drug consumption facilities within
57 their jurisdictions, and other Snohomish County cities are considering similar ordinances; and
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59 WHEREAS, supervised drug consumption facilities, including Community Health
60 Engagement Locations or similar sites, inherently attract criminal activity as the drugs consumed
61 at those sites are themselves illegal, and locating such sites in the City of Lynnwood may attract
62 additional criminal activity such as drug trafficking, burglary, and theft; and
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64 WHEREAS, City staff have learned that persons, businesses or other entities have inquired
65 to other cities about applying for business licenses and development permits and approvals for
66 supervised drug consumption facilities, including Community Health Engagement Locations; and
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68 WHEREAS, on January 8, 2018, the Lynnwood City Council adopted Ordinance No. 3284,
69 imposing interim land use controls regarding the prohibition of supervised drug consumption
70 facilities, safe injection sites, and other uses or activities designed to provide a location for
71 persons to consume illicit drugs, and the interim regulations took effect immediately; and
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73 WHEREAS, on February 26, 2018, the City Council held a public hearing on Ordinance No.
74 3284, and continued the public hearing to March 12, 2018 for additional public testimony; and
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76 WHEREAS, at the public hearing held on February 26 and March 12, 2018, all persons who
77 wished to provide testimony and other information on Ordinance No. 3284 had the opportunity
78 to do so; and
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80 WHEREAS, the regulation of supervised drug consumption facilities is a valid exercise of
81 City police powers under Article XI, Section 11 of the State Constitution; and
82

83 WHEREAS, the establishment of land use and zoning regulations is an exercise of the
84 police power and is specifically authorized by RCW 35.A.63.100; and

85
86 WHEREAS, residents and business and property owners within the City have expressed
87 concerns regarding negative impacts to the community resulting from supervised drug
88 consumption facilities; and

89
90 WHEREAS, in November 2017, the Lynnwood Human Services Commission initiated the
91 study, consideration and discussion of the appropriate and most effective methods and
92 strategies to address the treatment of opioid addiction, that also take the impacts on the
93 community as a whole into account; and

94
95 WHEREAS, at the time that the City Council adopted Ordinance No. 3284, the City Council
96 specifically referred the supervised drug consumption facility issue to the Lynnwood Human
97 Services Commission for information gathering, discussion and recommendation; and

98
99 WHEREAS, at meetings on February 1 and March 1, 2018, the Human Services
100 Commission discussed the issue with members of the community, who provided information
101 both in favor of and against permitting supervised drug consumption facilities in the City; and

102
103 WHEREAS, after considering the issue, including the information provided by members of
104 the public, the Human Services Commission voted to support the imposition of permanent land
105 use controls prohibiting the location of these facilities in the City; and

106
107 WHEREAS, the Lynnwood Planning Commission considered the draft land use controls
108 contained in this Ordinance, and held a public hearing on July 12, 2018 and unanimously
109 recommended approval; and

110
111 WHEREAS, on July 23, 2018, the City Council held a public hearing on the land use controls
112 contained in this Ordinance, at which time members of the public had the opportunity to provide
113 comments and other information relating to the provisions in the Ordinance; and

114
115 WHEREAS, the City Council adopts the foregoing recitals as its findings of fact justifying
116 the adoption of this Ordinance to protect the public health, safety and welfare of the residents
117 and property owners of the City of Lynnwood; and

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119 WHEREAS, the City Council after due consideration has determined that the official land
120 use control provisions stated in this Ordinance are in the best interests and necessary for the
121 protection of the public health, safety, peace and general welfare; now, therefore

122
123 THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

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125 **Section 1. Findings.** Upon consideration of the provisions of this Ordinance, the City Council
126 finds that the amendments contained herein are: a) consistent with the comprehensive plan; and

127 b) substantially related to the public health, safety, or welfare; and c) not contrary to the best
128 interest of the citizens and property owners of the city of Lynnwood.

129
130 **Section 2.** A new Section 21.02.744 is added to the Lynnwood Municipal Code to read as follows:

131
132 **21.02.744 Supervised drug consumption facilities.**
133 “Supervised drug consumption facilities” means facilities designed to provide a hygienic
134 environment where individuals are able to consume illicit drugs, intravenously or by any
135 other method, including all uses established or activities undertaken for the above-
136 defined purpose, irrespective of how the use or activity is described or configured. A
137 supervised drug consumption facility may also be referred to as a community health
138 engagement location, supervised drug injection site or facility, safe injection site, or fix
139 room.

140
141 **Section 3.** LMC 21.42.103 is hereby amended to read as follows:

142
143 **Uses prohibited in the single-family residential zones.**
144 A. Retail sales, production and processing of marijuana and/or marijuana-infused
145 products.
146 B. Medical marijuana collective gardens, as either a primary use, accessory use, or home
147 occupation.
148 C. Supervised drug consumption facilities.

149
150 **Section 4.** LMC 21.43.103 is hereby amended to read as follows:

151
152 **Uses prohibited in the multiple-family residential zones.**
153 A. Retail sales, production and processing of marijuana and/or marijuana-infused
154 products.
155 B. Medical marijuana collective gardens, as either a primary use, accessory use, or home
156 occupation.
157 C. Supervised drug consumption facilities.

158
159 **Section 5.** LMC 21.44.103 is hereby amended to read as follows:

160
161 **Uses prohibited in the public zones.**
162 A. Retail sales, production and processing of marijuana and/or marijuana-infused
163 products.
164 B. Medical marijuana collective gardens.
165 C. Supervised drug consumption facilities.

166
167 **Section 6.** LMC 21.46.103 is hereby amended to read as follows:

168

169 **Uses prohibited in the commercial zones.**

170 A. Retail sales, production and processing of marijuana and/or marijuana-infused
171 products.

172 B. Medical marijuana collective gardens.

173 C. Supervised drug consumption facilities.

174

175 **Section 7.** LMC 21.48.100 is hereby amended to read as follows:

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177 **Permitted uses.**

178 A. All uses permitted in the Neighborhood Commercial (NC) and General Commercial (CG)
179 zone are permitted in this classification, except for the following:

180 1. Outdoor used automobile sales;

181 2. Funeral parlors and mortuaries;

182 3. Self-service storage facilities;

183 4. Marijuana and marijuana-infused products retail sales, processing and production;

184 5. Medical marijuana collective gardens; and

185 6. Supervised drug consumption facilities.

186

187 **Section 8.** LMC 21.50.103 is hereby amended to read as follows:

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189 **Uses prohibited in the industrial zones.**

190 A. Retail sales, production and processing of marijuana and/or marijuana-infused
191 products.

192 B. Medical marijuana collective gardens.

193 C. Supervised drug consumption facilities.

194

195 **Section 9.** LMC 21.54.100D is hereby amended to read as follows:

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

199 1. Vehicle display, sales, rental, repair, washing, or servicing as a principal use except
200 that:

201 a. Retail sales of new automobile tires, batteries and other motor vehicle
202 accessories and installation thereof within a completely enclosed building; and

203 b. Retail sale of automobile and recreational vehicle fuels (but without repairs or
204 servicing) when accessory to an otherwise permitted retail use over 50,000 square
205 feet GFA.

206 2. Gas or service stations as a principal use.

207 3. Dry cleaning plants.

208 4. Appliance or small engine repair.

209 5. Self-service storage or cold storage lockers.

210 6. Agricultural and horticultural activities (including plant nurseries). Florist shops are
211 permitted.

212 7. Marijuana and marijuana-infused products retail sales, processing or production.

- 213 8. Medical marijuana collective gardens.
- 214 9. Supervised drug consumption facilities.

215
216 **Section 10.** LMC 21.56.100C is hereby amended to read as follows:

- 217
- 218 C. Prohibited Uses. The following uses shall be prohibited in this overlay zone:
- 219 1. Automotive uses (see Table 21.46.01), except as noted under subsections (A) and
- 220 (B) of this section.
- 221 2. Indoor amusement enterprises and amusement centers.
- 222 3. Dry cleaning and laundry plants.
- 223 4. Appliance stores, furniture stores and carpet stores.
- 224 5. Cold storage lockers.
- 225 6. Radio or television stations.
- 226 7. Marijuana and marijuana-infused products retail sales, processing or production.
- 227 8. Medical marijuana collective gardens.
- 228 9. Supervised drug consumption facilities.

229
230 **Section 11.** LMC 21.57.300B is hereby amended to read as follows:

- 231
- 232 B. Prohibited Uses.
- 233 1. Marijuana and marijuana-infused products retail sales, processing or production.
- 234 2. Medical marijuana collective gardens.
- 235 3. Supervised drug consumption facilities.
- 236 ~~4.~~ 3. The following uses are prohibited unless their sites have frontage on and access
- 237 to 196th Street SW and 64th Avenue W:
- 238 a. Gas stations, car washes, auto parts stores, auto repair and maintenance and
- 239 similar auto-related uses.
- 240 b. Drive-through facilities.

241
242 **Section 12.** LMC 21.60.300A is hereby amended to read as follows:

- 243
- 244 A. Prohibited in all city center zones:
- 245 1. Adult establishments;
- 246 2. Billboards;
- 247 3. Industrial uses (excluding management, research and development, and sales
- 248 operations).
- 249 4. Outdoor storage or display of materials and equipment (except during
- 250 construction) except as provided for in subsection (A)(10) of this section.
- 251 5. Auto-oriented uses, including:
- 252 a. Vehicle washing;
- 253 b. Drive-throughs, including drive-up windows and drive-up kiosks;
- 254 c. Vehicle repair;
- 255 d. Battery exchange station (electric vehicles);

- 256 e. Battery charging station (electric vehicle), Level 1, Level 2 or Level 3
257 (unless contained within an enclosed parking structure or attached to
258 the exterior of a building containing a principal use);
259 f. Gasoline service stations;
260 g. Rental car agencies with outdoor fleet;
261 h. Outdoor sales of boats, vehicles or equipment;
- 262 6. Sewage treatment plants;
263 7. Work release facilities;
264 8. Wrecking yards;
265 9. Secure community transition facilities;
266 10. Uses not contained within a building except:
267 a. Accessory outdoor dining;
268 b. Accessory outdoor display of merchandise up to a maximum of 200
269 square feet and where the display only occurs during business hours;
270 c. Temporary special events; or
271 d. Accessory outdoor recreation areas, in an amount not greater than the
272 gross floor area of the principal use it serves, not to exceed one-half acre;
- 273 11. Self-service storage facilities (also known as mini-storage) consisting of more
274 than 20 percent of the building's total gross floor area;
275 12. Marijuana and marijuana-infused products retail sales, processing or
276 production;
277 13. Medical marijuana collective gardens;
278 14. Dry cleaning and laundry plants (with the exception of dry cleaning and
279 laundry, self-service and pick-up stations and incidental cleaning as an in-house
280 service);
281 15. Outdoor commercial recreation and entertainment, including stadiums, race
282 tracks, outdoor theaters, swimming pools, golf courses;
283 16. Overnight campgrounds;
284 17. Retail lumber yards;
285 18. Assembly of glass, light metal, plastic, electronic, electrical or wood parts,
286 which are extracted, stamped, manufactured or shaped elsewhere, not precluding
287 minor processes such as cutting or drilling;
288 19. Bottling or packaging plants (except as incidental to a brewery or winery);
289 20. Greenhouses, plant nurseries and agriculture;
290 21. Outdoor fresh fruit, vegetable or produce stands (except for temporary uses
291 such as farmers markets);
292 22. Warehouse of 10,000 square feet or less;
293 23. Distribution centers;
294 24. Drive-in and drive-through restaurants;
295 25. Detached single-family or manufactured homes;
296 26. Detached wireless communication facilities (wireless attached facilities are
297 allowed subject to LMC 21.46.110);
298 27. Supervised drug consumption facilities; and

299 28. Any other uses similar to those listed above or any other use determined by
300 the community development director to be inconsistent with the intent of the city
301 center zones as described in this chapter and the city center subarea plan. Appeals
302 of the community development director’s decision shall be processed as a Process
303 II application (LMC 1.35.200).
304

305 **Section 13.** LMC 21.62.210 is hereby amended to read as follows:
306

307 **Prohibited uses.**

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

- 311 A. Drive-up or drive-through service and/or window that does not meet the
312 requirements of LMC 21.62.200(A)(10).
- 313 B. Auto-oriented commercial uses including, but not limited to:
 - 314 1. Gas stations;
 - 315 2. Auto repair, auto service shops, or the like;
 - 316 3. Auto wrecking, recycling businesses and/or yards;
 - 317 4. Car washes; and
 - 318 5. New auto dealerships (new and/or used vehicles), except as provided in LMC
319 21.62.200(A)(9).
- 320 C. Adult establishments and adult retail uses.
- 321 D. Industrial uses.
- 322 E. Warehouses, mini-warehouses, self-storage, mini-storage and the like.
- 323 F. Park-n-ride and park-n-pool lots or facilities.
- 324 G. Freestanding wireless communications towers and support structures (attached
325 wireless facilities are permitted; see LMC 21.62.200).
- 326 H. Marijuana and marijuana-infused products retail sales, processing or production.
- 327 I. Medical marijuana collective gardens.
- 328 J. Supervised drug consumption facilities.

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330
331 **Section 14.** LMC 21.71.180 is hereby amended to read as follows:
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333 **Uses prohibited in the mobile home park zone.**

- 334 A. Retail sales, production and processing of marijuana and/or marijuana-infused
335 products.
- 336 B. Medical marijuana collective gardens.
- 337 C. Supervised drug consumption facilities.

338
339 **Section 15. Repealer.** Ordinances 3284 and 3302 are repealed.
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341 **Section 16. Severability.** If any section, subsection, sentence, clause, phrase, or word of this
342 Ordinance should be held to be invalid or unconstitutional or inapplicable by a court of

343 competent jurisdiction, such invalidity or unconstitutionality or inapplicability thereof shall not
344 affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase,
345 or word of this Ordinance.
346

347 **Section 17. Effective Date.** This Ordinance, or a summary thereof consisting of the title, shall be
348 published in the official newspaper of the City, and shall take effect and be in force five (5) days after
349 publication.

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352 PASSED BY THE CITY COUNCIL the 23rd day of July 2018.
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354 APPROVED:

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Nicola Smith, Mayor

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361 ATTEST/AUTHENTICATED:

362 APPROVED AS TO FORM:

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364 _____
365 Sonja Springer, Finance Director

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367
368 _____
369 Rosemary Larson, City Attorney

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