

**CITY OF SNOHOMISH
Snohomish, Washington**

ORDINANCE 2348

AN ORDINANCE OF THE CITY OF SNOHOMISH, WASHINGTON, ESTABLISHING A PROHIBITION ON THE SITING OR OPERATION OF SUPERVISED DRUG INJECTION FACILITIES; AMENDING THE CITY'S DEVELOPMENT CODE, AS SET FORTH IN TITLE 14 OF THE SNOHOMISH MUNICIPAL CODE (SMC), BY AMENDING CHAPTER 14.100, DEFINITIONS, SMC 14.204.080, GENERAL SERVICES LAND USE TABLE, AND SMC 14.207.065, PROHIBITED USES; REPEALING THE INTERIM ZONING CONTROLS ESTABLISHED BY ORDINANCE 2344; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, The City has the authority under common law and Title 35A RCW to adopt regulations related to zoning and land uses and the processing of land use development permits; and

WHEREAS, the City has adopted a Land Use Development Code as Title 14 of the Snohomish Municipal Code ("Development Code") to implement the Comprehensive Plan and to ensure compatible and rational land development and land use in all portions of the City; and

WHEREAS, the City Council finds and determines that potential primary and secondary effects on the public health safety and welfare associated with the operation of supervised drug injection facilities have not had adequate time to be studied and measured and thereby assessed for potential risks and detrimental impacts to the health safety and welfare of the Snohomish community; and

WHEREAS, the City Council finds and determines that the prohibition of supervised drug injection site facility land uses within the City of Snohomish is the only effective means to minimize potential social and municipal costs associated with the operation of supervised drug injection facilities; and

WHEREAS, the City Council has determined that the supervised drug injection site facility use is not addressed under existing City regulations, except that issuance of business licenses for activities that conflict with any City, State, or federal law is prohibited according to the provisions of Title 5 SMC; and

WHEREAS, the City Council finds and determines that Title 14 SMC containing the land use regulations of the City of Snohomish should be amended to specifically prohibit supervised drug injection facilities, within the City of Snohomish; and

WHEREAS, the City Council finds and determines that the prohibition of supervised drug injection facilities is subject to the authority and general police power of the City to develop

specific and appropriate land use controls regarding such uses, and the City Council reserves its powers and authority to appropriately amend, modify, and revise such prohibition to implement such land use controls in accordance with applicable law; and

WHEREAS, pursuant to Ordinance 2344, adopted on January 16, 2018, the City Council established a six-month interim zoning controls concerning the siting and operating of supervised drug injection facilities, to protect the health, safety, and welfare of the citizens of Snohomish; and

WHEREAS, the intent to amend development regulations was noticed in accordance with City of Snohomish procedures and regulations as provided for in SMC 14.15.070 and on February 12, 2018, a 60-day notice of intent to amend development regulations was sent to the Washington State Department of Commerce as required by RCW 36.70A.106, and

WHEREAS, pursuant to the State Environmental Policy Act, the City of Snohomish was designated as the lead agency for review of the proposed amendment. A Determination of Non-Significance was issued pursuant to WAC 197-11-355 on January 10, 2018 for Ordinance 2344. No appeal of that determination was received so the determination became final. Because the impacts of Ordinance 2348 are identical to those of Ordinance 2344 a new SEPA determination is unnecessary; and

WHEREAS, on April 4, 2018, following public notice as required by law, a public hearing on the proposed amendments set forth herein was held before the Planning Commission and all persons wishing to be heard were heard; and

WHEREAS, following the public hearing, the Planning Commission evaluated issues related to the proposed regulations; and

WHEREAS, following the public hearing and pursuant to SMC 14.15.090, the Planning Commission made written findings and issued a recommendation to the City Council to approve the proposed amendments as set forth herein, finding the proposed amendments are internally consistent with the City of Snohomish Comprehensive Plan, the Growth Management Act, and the State Environmental Policy Act, and are in the interest of the public health, safety, and welfare of Snohomish residents; and

WHEREAS, in its findings and recommendations, the Planning Commission recommended that, because supervised drug injection facilities have little or no precedent in the state and have the potential to generate negative impacts to the community, the City Council adopt a ban on all supervised drug injection facilities; and

WHEREAS, on April 17, 2018, at a public meeting the City Council considered the Planning Commission's recommendation and accepted public comment on the Planning Commission recommendation; and

WHEREAS, in the event this Ordinance is adopted and becomes effective, it is necessary and appropriate that the six month moratoria as enacted pursuant to Ordinance 2344 should be repealed and replaced by this Ordinance;

WHEREAS, the City Council found the proposed amendments to be consistent with the City of Snohomish Comprehensive Plan, the Washington State Growth Management Act and State Environmental Policy Act, and is in the interest of the public health, safety, and welfare of Snohomish residents.

NOW THEREFORE, the City Council of the City of Snohomish, Washington, do ordain as follows:

Section 1. Adoption of Recitals as Findings. The City Council hereby adopts each of the recital paragraphs above as findings and hereby incorporates them by reference as though fully stated herein.

Section 2. Adoption of Planning Commission Findings. The Planning Commission findings as set forth in “Exhibit A” are hereby adopted and incorporated by reference, including but not limited to the findings that the Development Code regulations and amendments adopted by this Ordinance are:

- a. Internally consistent with the City of Snohomish Comprehensive Plan;
- b. Consistent with the Washington State Growth Management Act;
- c. Consistent with the Washington State Environmental Policy Act (Chapter 43.21C RCW); and
- d. In the interest of the public health, safety, and welfare of Snohomish residents.

Section 3. Amended SMC 14.100.020 adopted. SMC 14.100.020, Definitions, is hereby amended to add a new definition to read as follows:

Supervised Drug Injection Facility means a legally-supervised medically-supervised facility designed to provide a location where individuals are able to consume illicit drugs intravenously. “Supervised Drug Consumption Facility” and “Safe Injection Site” mean the same as Supervised Drug Injection Site Facility.

All other provisions of Chapter 14.100 SMC shall remain in full force and effect, unchanged.

Section 4. Amended SMC 14.204.080 adopted. An amended SMC 14.204.080, General Services Land Use Table, is hereby adopted to read as set forth in “Exhibit B” and incorporated herein by this reference.

Section 5. Amended SMC 14.207.065 SMC adopted. SMC 14.207.065, entitled “Prohibited Uses”, is hereby amended to read as follows:

14.207.065 Prohibited Uses.

Until such time as this chapter is amended to provide specific provisions and land use controls allowing and regulating the following uses, such uses shall be prohibited and not allowed in any zone within the City. No prohibition under this section shall be superseded by an administrative determination to allow a use pursuant to SMC 14.207.060 or by any other provision of this chapter.

- A. Production, processing, retail sale of marijuana and marijuana-infused products subject to, eligible for, or in receipt of, a license issued by the State of Washington, all as defined in Initiative

Measure No. 502, as codified in the Revised Code of Washington, and implementing regulations in Chapter 314-55 of the Washington Administrative Code, as now existing or hereafter amended.

B. The siting or operation of a supervised drug injection facility.

Section 6. Termination and Repeal of Interim Zoning Controls. Ordinance 2344 is hereby repealed for the reason that it is replaced by this ordinance. The effective date of said repealer shall be the effective date of this Ordinance.

Section 7. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 8. Effective Date. This ordinance shall be effective five days after adoption and publication by summary.

ADOPTED by the City Council and **APPROVED** by the Mayor this 17th day of April, 2018.

CITY OF SNOHOMISH

By John T. Kartak
John T. Kartak, Mayor

ATTEST:

By Pat Adams
Pat Adams, City Clerk

Approved as to form:

By Grant K. Weed
Grant K. Weed, City Attorney

Date of Publication: 4-21-18

Effective Date: 4-28-18

EXHIBIT A

Snohomish Planning Commission Findings of Fact & Conclusions

Based on the review of the proposed Ordinance 2348 banning the siting and operation of supervised drug injection facilities, the Planning Commission of the City of Snohomish makes the following Findings of Fact:

1. The City has the authority under RCW Title 35A to adopt regulations related land use development.
2. The City has adopted a Land Use Development Code as Title 14 of the Snohomish Municipal Code ("Development Code") to implement the Comprehensive Plan and to ensure compatible and rational land development and land use in all portions of the City.
3. On January 16, 2018, the Snohomish City Council approved Ordinance 2344 which adopted interim regulations pursuant to RCW 35A.63.220, prohibiting the siting and operation of supervised drug injection site facilities in the city.
4. Pursuant to SMC 14.15.070 and RCW 36.70A.106, on February 12, 2018, the city notified the Washington State Department of Commerce of the City's intent to amend development regulations related to banning supervised drug injection facilities.
5. Pursuant to the State Environmental Policy Act, the City of Snohomish was designated as the lead agency for review of the proposed amendment. A Determination of Non-Significance was issued pursuant to WAC 197-11-355 on January 10, 2018 for Ordinance 2344. No appeal of that determination was received so the determination became final. Because the impacts of Ordinance 2348 are identical to those of Ordinance 2344 and new SEPA determination is unnecessary.
6. The intent to amend development regulations to ban the operation and siting of supervised drug injection facilities was noticed in accordance with City of Snohomish procedures and regulations as provided for in SMC 14.15.070.
7. A Notice of Public hearing consistent Snohomish Municipal Code requirements was published on March 19, 2018.
8. The potential primary and secondary effects on the public health safety and welfare associated with the operation of supervised drug injection facilities have not been adequately studied and measured to allow for the assessment for potential risks and detrimental impacts to the health safety and welfare of the Snohomish community.
9. Currently Snohomish Municipal Code does not address or regulate supervised drug injection facilities.
10. The prohibition of supervised drug injection facilities is subject to the authority and general police power of the City to develop specific and appropriate land use controls regarding such uses.

11. The following Comprehensive Plan goal supports the proposed code amendments:

GOAL LU 2: Manage growth and community change in accordance with the values and vision of the Snohomish community of residents, land owners, and business people, and consistent with the Growth Management Act.

12. On April 4, 2018 the City of Snohomish Planning Commission held a public hearing to consider Ordinance 2348 which would amend Snohomish Municipal Code to ban the siting and operation of supervised drug injection facilities. After hearing a staff presentation on the proposed ordinance, asking questions, and receiving public testimony, the public hearing was closed and the Commission deliberated before making its recommendation to the City Council that the proposed Ordinance 2348 be approved.

Based on the foregoing Findings of Fact, the Snohomish Planning Commission hereby makes the following conclusions:

1. The proposed code amendments will implement and be consistent with the goals and policies of the City of Snohomish Comprehensive Plan.
2. The proposed code amendments are consistent with the Washington State Growth Management Act.
3. The proposed code amendments are consistent with the Washington State Environmental Policy Act (Chapter 43.21C RCW).
4. The proposed code amendments will protect the public health, safety, and general welfare.
5. The proposed code amendments prevent the establishment of a supervised drug injection facility in the city at least until more is known about the impacts such facilities might have on community.

Date: Apr 4, 2018

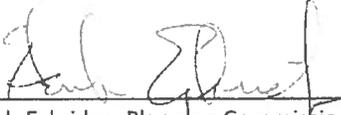
By: 
Hank Eskridge, Planning Commission Chair

EXHIBIT B

SMC 14.204.080 – General Services Land Use Table

Land Use	Open Space	Public Park	Urban Horticulture	Single Family Residential	Low Density Residential	Medium Density Residential	High Density Residential	Commercial	Neighborhood Business	Historic Business District	Business Park	Industrial	Airport Industry	Mixed Use
Personal Services														
Adult uses												p ⁷		
Automotive repair								p		p ¹	p ¹	p	p ¹	
Automotive service								p		p	p	p	p	p
Cemetery, columbarium or mausoleum								p		p	p	p		
Childcare		c			p ²	p ²	p ²	p ²	p ²		p			p ²
Childcare, family – 12 children or less		c	c	c	c	c	c	c		c				c
Childcare, family – 6 children or less		c	p	p	p	p	p	p		p				p
Church, synagogue, temple, mosque				c ⁹	c	c	c	p		p	p	p	p	p
Community stable		c	p			c								
Funeral home/crematory								p		p	p	p		
General personal services								p		p	p	p	p	p
Industrial launderers											p	p		
Commercial kennel or cattery			p ⁴	p ⁴				p			p	p		
Animal grooming w/o kenneling/boarding								p		p	p	p		p
Miscellaneous repair								p		p	p	p	p	p
Social services								p		p	p	c		c
Veterinary clinic w/o			c ⁸					p ⁴		p ⁴	p ⁴	p		p ⁴

Land Use	Open Space	Public Park	Urban Horticulture	Single Family Residential	Low Density Residential	Medium Density Residential	High Density Residential	Commercial	Neighborhood Business	Historic Business District	Business Park	Industrial	Airport Industry	Mixed Use
kenneling/boarding														
Veterinary clinic w/ kenneling/boarding			c ⁸					p ⁴			p ⁴	p		p ⁴
Health Services														
Hospital								p		p	p	p		p
Medical/dental lab								p		p	p	p		p
Miscellaneous health								p		p	p	p		p
Nursing/convalescent home				c ⁶	c	p	p	p		p	p	p		p
Office/patient clinic								p	p	p	p			p
Congregate care/assisted living				c ⁶	c	p	p	p		p	p			p
Supervised drug injection facility														
Education Services														
Elementary or middle/junior				c	c	c	c	p			p			p
School district support facility					c	c	c	p		p	p	p		p ⁵
Secondary or high school				c	c	c	c	p			p			p
Specialized instruction school		c	c		c	c	c	p		p	p		p	p
Vocational school					c	c	c	p		p	p	p	p	p