

SUBSTITUTE ORDINANCE NO. 682

AN ORDINANCE of the City Council of the City of Lakewood, Washington, establishing a moratorium on the filing of applications for licenses, permits and approvals for any Adult Family Home, Group Home, Enhanced Services Facility or comparable business in residential zones and setting a public hearing therefore.

WHEREAS, the City of Lakewood incorporated effective February 28, 1996; and,

WHEREAS, upon incorporation the City was largely developed as unincorporated Pierce County; and,

WHEREAS, included within incorporated Pierce County are Western State Hospital and an adjacent residential neighborhood; and,

WHEREAS, there are several Adult Family Home businesses within the residential neighborhood that is adjacent to Western State Hospital; and,

WHEREAS, in September 2017, the State Department of Social and Health Services attempted to release a diagnosed psychotic killer with likelihood of re-offense into one of the Adult Family Home businesses within the residential neighborhood that is adjacent to Western State Hospital; and

WHEREAS, efforts by the City to determine what type and how many individuals are being “discharged” into Adult Family Home businesses in residential neighborhoods in the City have been generally unsuccessful; and,

WHEREAS, the information the City has received, through public record and public testimony, identifies one such Adult Family Home businesses as housing four registered sex offenders with two remaining beds to fill, suggests that DSHS routinely “discharges” individuals

into Adult Family Home businesses in the City of Lakewood, and that little distinction is drawn between the type of individual suited for Adult Family Home businesses placement and those who pose actual danger to caregivers and other residents; and,

WHEREAS, DSHS relies on a broad interpretation of statute related to Adult Family Home businesses that is not supported by the legislative intent; and,

WHEREAS, the new moratorium, as commenced by this Ordinance, does pronounce the will of the City Council of the City of Lakewood to set a moratorium upon Adult Family Home businesses within the residential zones of the City; and,

WHEREAS, this new moratorium is needed to allow the City to reconcile the provisions of state law with the placements made by DSHS without continuing danger to the residents of the City; and,

WHEREAS, for the purposes of the moratorium created herein, the City Council of the City of Lakewood does define Adult Family Homes subject to this moratorium as businesses subject to City regulation as such; and,

WHEREAS, sections 35A.63.220 and 36.70A.390 of the Revised Code of Washington authorize the City Council to establish the moratorium commenced herein.

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

Section 1. Moratorium established. That a moratorium is hereby imposed on the filing with the City or the Courts of any applications for licenses, permits or approvals for Adult Family Home businesses located within residential zoning districts in the City.

Section 2. Adult Family Homes defined. That for the purposes of this moratorium “Adult Family Homes” shall mean a residential home in which a person or persons provide personal care, special care, room, and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services, pursuant to chapter 70.128 RCW.

Section 3. That a public hearing on the proposal to establish a moratorium on the filing with the City or the Courts or any other jurisdiction of any applications for licenses, permits or approvals for Adult Family Home businesses located within residential zoning districts in the City of Lakewood is hereby set for 7:00 p.m, or as soon thereafter, as the matter may be heard, at the regular meeting of the Lakewood City Council on the 4th of June, 2018, at the Lakewood City Council Chambers, 6000 Main Street SW, Lakewood, Washington 98499.

Section 4. Term of Moratorium. The moratorium imposed by this Ordinance shall become effective on the date hereof, and shall continue in effect for a period of six (6) months, unless repealed, extended or modified by the City Council after subsequent public hearing pursuant to RCW 35A.63.220 of 36.70A.390.

Section 5. Severability. If any sections, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of component jurisdiction, or its application held inapplicable to any person, property or circumstance, such invalidity or unconstitutionality or inapplicability shall not effect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance or its application to any other person, property or circumstance.


Section 6. Effective Date. That this Ordinance and the moratorium provided for herein shall be in full force and effect upon passage and signatures hereon.

PASSED by the City Council this 21st day of May, 2018.


CITY OF LAKEWOOD

  
\_\_\_\_\_  
Don Anderson, Mayor

Attest:

  
\_\_\_\_\_  
Alice M. Bush, CMC, City Clerk

Approved as to Form:

  
\_\_\_\_\_  
Heidi Ann Wachter, City Attorney

# REQUEST FOR COUNCIL ACTION

<b>DATE ACTION IS REQUESTED:</b> June 18, 2018	<b>TITLE:</b> Adopting findings of fact in support of Ordinance No. 682 relative to a Moratorium on applications for licenses, permits or approvals for adult family home businesses located within residential zoning districts.	<b>TYPE OF ACTION:</b> <input type="checkbox"/> ORDINANCE NO. <input type="checkbox"/> RESOLUTION NO. <input checked="" type="checkbox"/> MOTION NO. 2018-34 <input type="checkbox"/> OTHER
<b>REVIEW:</b> May 7, 2018  May 21, 2018	<b>ATTACHMENTS:</b> Findings of Fact	

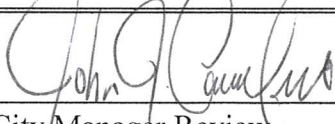
**SUBMITTED BY:** Heidi Ann Wachter, City Attorney

**RECOMMENDATION:** It is recommended that the City Council adopt findings of fact in support of Ordinance No. 682 relative to the Moratorium on applications for licenses, permits or approvals for adult family home businesses located within residential zoning districts in order to fully comply with state law authorizing a moratoria.

**DISCUSSION:** On May 21, 2018, the City of Lakewood adopted Ordinance No. 682 which established a Moratorium on the filing with the City or the Courts any application for licenses, permits or approvals for Adult Family Home businesses located within residential zoning districts in the City. A public hearing was held at the regular meeting of the Lakewood City Council on the 4th of June, 2018. The City must now adopt detailed findings of fact that include justifications for the adopted action.

**ALTERNATIVE(S):** The City Council can amend the proposed findings of fact.

**FISCAL IMPACT:** This Resolution has no fiscal impact.

Prepared by _____	 _____ City Manager Review
Department Director _____	

## **City Council Findings of Fact underlying Ord. No. 682 (Moratorium)**

On May 21, 2018, the City of Lakewood adopted Ordinance No. 682 which established a Moratorium on the filling with the City or the Courts any application for licenses, permits or approvals for Adult Family Home businesses located within residential zoning districts in the City based on the Council's preliminary findings.

On June 4, 2018, a public hearing was held at the regular meeting of the Lakewood City Council at which time the public had an opportunity to provide testimony to the Council.

Based on the above, the Council now issues formal findings of fact:

### **Concentration of Adult Family Homes in Oakbrook.**

1. While the City of Lakewood is one of 23 cities within Pierce County, 31 percent of Adult Family Homes are located within its jurisdictional boundaries.
2. As of May 2018, there are 266 Adult Family Homes in Pierce County and 77 of those are located in the City.
3. Of the 77 Adult Family Homes in the City, 35 of those are located in the Oakbrook neighborhood of the City.
4. By concentrating Adult Family Homes in Oakbrook, either by design or through neglect for the requirements of the Growth Management Act (GMA), the state violates the goal of the GMA requiring comprehensive land use planning is to provide predictability in the use of land and ensure compatibility and fit of those uses in a given geographic area or zone. The state's actions undermine predictability and fit, which negatively effects the valuable property rights of all homeowners in Oakbrook, including an increasingly saturated market of Adult Family Home operators.
5. By concentrating Adult Family Homes in Oakbrook, the state violates the purpose of

the Adult Family Home statute. The purpose of the state's Adult Family Home law is to avoid institutionalizing vulnerable adults. But by failing to fairly distribute the homes throughout the county and the state, the state has recreated institutional living conditions in the Oakbrook community.

6. Beyond the concentration of these homes is the conduct observed, which lacks integration into the neighborhood. Residents of the home are rarely seen and attempts to connect with them by neighbors have not been entirely successful.

**Placement of Psychotic Killer and Sex Offenders in Adult Family Home in Oakbrook.**

6. In the fall of 2017, the State attempted to place, or otherwise release, at least one resident in an Adult Family Home after that resident had spent most of his adult life at WSH; has a history of violence including murder and assault; and is documented to be at risk of future danger to himself and others, even when compliant with medications.

7. The state violated RCW 71.05.280 when it failed to provide review by the Public Safety Review Panel of the planned release of the previously described killer.

8. The State is aware or should be aware that at least four registered sex offenders have been placed or conditionally released into an Adult Family Home in a residential neighborhood of the City, namely Woodville Adult Family Home, LLC.

9. Mr. Chappell, one of the four registered sex offenders mentioned above, was convicted of rape with force and threat in December of 1983 and kidnapping in the first degree in August of 1984. He is reportedly disabled.

10. Mr. Benson, one of the four registered sex offenders mentioned above, pled guilty to second degree child molestation in November of 2014.

11. Mr. Jordan, one of the four registered sex offenders mentioned above, has two convictions for possessing child pornography; one in 2002 and another in 2015.

12. Mr. Tanzy, one of the four registered sex offenders mentioned above, was convicted of child molestation in the third degree in 2000; possession of drug paraphernalia in 2000; assault in 2000; and criminal trespass in 1999 and 2013.

13. Even if the previously described killer and the registered sex offenders identified above may be described as “vulnerable” pursuant to the Adult Family Home statute, they do not otherwise fit the criteria for residents of an Adult Family Home because they require far more than personal and/or special care.

14. Adult Family Homes are not required to have, and do not have, the staff, resources or secure facilities needed to accommodate residents like registered sex offenders, who have a history of violence and/or predation. Placement of registered sex offenders in Adult Family Homes foreseeably risk the safety and security of other Adult Family Home residents, current and prospective, and the general public.

15. Publicly available documents about Woodville AFH, LLC do not disclose the fact that four registered sex offenders reside in the home, although current and prospective residents have the right to know this information.

16. Woodville AFH, LLC has violated the statutory requirements for Adult Family Homes by admitting registered sex offenders into their home because such admissions are inherently unsafe. By state law, registered sex offenders pose a risk of re-offending.

17. Woodville AFH, LLC has violated the above statutory requirements for Adult Family Homes by admitting the particular registered sex offenders into their home. The crimes committed by those offenders are the types of crimes referenced in RCW 80.128.130 (rape, assault, unlawful imprisonment, and sexual exploitation) which necessarily disqualifies them from residing in this or any Adult Family Home.

18. By releasing, placing and/or facilitating the placement of the above registered sex offenders in the Woodville AFH, LLC, the state has failed to properly care for them as mentally ill citizens of the state and have failed to properly license and/or regulate the home.

19. The placements by state agencies of the previously described killer and the registered sex offenders fit the admission criteria for Enhanced Services Facilities in that they have a history of violence and/or predation and/or otherwise meet the admission criteria of RCW 70.97.030.

**Limited State Transparency, but Information Found Shows Repeated State Violations.**

20. The City has attempted to learn if the state has made or intends to make other such placements like the above referenced placements through a public records request pursuant to chapter 42.56 RCW

21. One document the state produced in response to the City's request is a matrix that demonstrates that residents, even if given the exact same classification, are shown to have been placed in Adult Family Homes, Enhanced Services Facilities and in-patient hospital care, which are vastly different facilities from each, rendering such classifications meaningless for purposes of placement and treatment.

22. The state has ignored the substantially different admission criteria for Adult Family Homes, Enhanced Services Facilities and in-patient treatment by placing those with a history of violence and/or predation into Adult Family Homes.

23. The state has placed and/or may potentially place, those with a history of violence and/or predation in communal living groups with residents who are considered, by state statute, to be vulnerable to abuse, and have done so without ensuring that proper staffing and facilities are provided.

**Poor Response from the State to Legitimate Complaints.**

24. The City's attempts to address legitimate concerns with the state has been met with



denial and more typically, vilification of the City and citizens. The state has denied that placement of a diagnosed psychotic killer in a home intended for independent living by vulnerable adults is wrong. The state has ignored the fact that there is a process for removing sex offenders from the list of registered sex offenders. The state has ignored the fact that a disability does not alleviate predation. The state has reflexively vilified citizens as discriminatory when those citizens insist that Adult Family Homes house only the vulnerable population intended and not be used as the extra beds the state so desperately needs.

**Need for Moratorium and Future Direction.**

25. A moratorium is necessary because the state has demonstrated a lack of transparency in making placements and regulating Adult Family Homes. What the information the City has acquired, shows the state has repeatedly violated the law.

26. The state's repeated violations and lack of responsiveness to legitimate complaints creates an emergency because the state continues to permit dangerous individuals to reside in independent, communal living arrangements with vulnerable adults.

27. During the moratorium on city licensing, the City will pursue a court-ordered moratorium on state licensing of Adult Family Homes.

28. During the moratorium, the City will continue to work with the state to correct the state's violation of the Growth Management Act and its requirement to fairly distribute essential public facilities, including Adult Family Homes, throughout Pierce County and the state.

29. During the moratorium, the City will continue to work with state legislative representatives to ensure that the state adhere to the GMA, the statutory requirements of the Adult Family Home statute and otherwise comprehensively plan for and provide adequate housing and treatment for mentally citizens throughout the state.