

**LYNNWOOD**  
WASHINGTON

**ORDINANCE 2998**

**AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ADOPTING A MORATORIUM ON THE ACCEPTANCE AND FILING OF APPLICATIONS FOR, AND THE LICENSING, ESTABLISHMENT, LOCATION, OPERATION, MAINTENANCE AND CONTINUATION OF MARIJUANA BUSINESSES AND MARIJUANA OPERATIONS UNDER WASHINGTON STATE INITIATIVE NO. 502; SETTING A DATE FOR A PUBLIC HEARING ON THE MORATORIUM; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY; AND ESTABLISHING AN EFFECTIVE DATE.**

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WHEREAS, the cultivation, possession or distribution of cannabis (marijuana) and marijuana products has been and continues to be a violation of federal law through 21 U.S.C. § 812(c), the Controlled Substances Act ("CSA"); and

WHEREAS, two United States Attorneys (Department of Justice) in Washington state have stated that marijuana is a Schedule I controlled substance under federal law, and as such, growing, distributing and possessing marijuana in any capacity other than as part of a federally authorized research program is a violation of federal law, and also that local governmental employees who conduct and engage in marijuana regulatory activities under Washington state law are subject to prosecution under the CSA; and

WHEREAS, in 2012, in response to an inquiry from the Clark County, Washington, Board of Commissioners, Joseph Rannazzisi, Deputy Assistant Administrator, Office of Division Control, U.S. Department of Justice, Drug Enforcement Administration, stated that anyone who knowingly carries out marijuana activities that are inconsistent with the CSA but consistent with Washington state law, as well as anyone who facilitates such activities, or conspires to commit such activities, is subject to criminal prosecution under the CSA; and

WHEREAS, Initiative Measure No. 502 ("Initiative 502") was approved by the voters of Washington state on November 6, 2012, and became effective on December 6, 2012; and

WHEREAS, Initiative 502 authorizes and directs the Washington State Liquor Control Board ("LCB") to establish rules for the licensing of marijuana producers (growers), marijuana processors, and marijuana retailers (collectively, "marijuana businesses") and for the operation of such marijuana businesses; and

WHEREAS, the LCB recently issued initial draft rules, and anticipates (1) issuing revised draft rules in early July 2013; and (2) adopting final rules in mid-August 2013, with an effective date in mid-September; and

WHEREAS, the LCB has indicated that beginning on the effective date of the final rules, it will accept marijuana business license applications for an initial 30-day period, and may issue licenses for marijuana businesses in December 2013; and

WHEREAS, Initiative 502 prohibits marijuana businesses within 1,000 feet of certain uses and buildings, such as child care centers, public parks and recreation centers or facilities, but does not define such uses and buildings, creating uncertainty as to the application of the distance restriction in the City; and

WHEREAS, Initiative 502 does not address the issue of whether the LCB, in granting licenses to marijuana businesses, must comply with land use and zoning restrictions of local jurisdictions, such as the City; and

WHEREAS, such issue might be addressed by the LCB in its final rules; and

WHEREAS, on June 13, 2013, the LCB made a written statement available to interested parties, stating that potential marijuana business applicants should contact the pertinent local government to determine if there are local business license requirements or local zoning or other regulations that may apply to or restrict such businesses; and

WHEREAS, on June 19, 2013, the LCB held a public work session on the draft rules, and made similar statements directing potential license applicants to contact the pertinent local government; and

WHEREAS, since that LCB public work session, the City has received a number of inquiries from parties interested in locating marijuana businesses in the City; and

WHEREAS, City staff has learned that persons and businesses which anticipate applying for marijuana business licenses with the LCB have also inquired to other cities about applying for city business licenses and development permits and approvals for such marijuana businesses; and

WHEREAS, the regulation of marijuana businesses is a valid exercise of City police powers under Article XI, Section 11 of the State Constitution; and

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

WHEREAS, RCW 69.51A.150 (enacted as part of Washington's medical marijuana law) authorizes the City to adopt and enforce zoning requirements, business licensing requirements and health and safety requirements pertaining to the production, processing or dispensing of marijuana and marijuana products; and

WHEREAS, the operation of marijuana businesses under Initiative 502 would be a violation of the CSA, and might be subject to the statements and conclusions of the United States Attorneys and the Rannazzisi letter mentioned above; and

WHEREAS, due in part to the uncertainty surrounding the extent of the City's authority to regulate marijuana businesses and operations, the City has not studied or implemented zoning and licensing regulations for marijuana businesses; and

WHEREAS, given the complexity of the relevant issues, the City needs time to conduct appropriate research and analysis in order to understand the extent and impact of Initiative 502, determine the appropriate regulatory framework for the permitting, licensing and operation of marijuana businesses in the City, and monitor and provide input into the rules being developed by the LCB; and

WHEREAS, the City Council deems it to be in the best interests of the public, and necessary for the protection of the public health, safety, property or peace, to establish a zoning moratorium on marijuana businesses and marijuana operations authorized or asserted to be authorized under Initiative 502, pending consideration of land use regulations to address such marijuana businesses and marijuana operations, in view of the rules being adopted by the LCB; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorize the City to adopt a moratorium on development or land use for six-months, and hold a public hearing on the moratorium within sixty (60) days of the initial adoption of the moratorium; now, therefore

**THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**Section 1.** Findings. The recitals set forth above are hereby adopted as the City Council's findings in support of the moratorium imposed by this Ordinance. The City Council may, in its discretion, adopt additional or revised findings at the conclusion of the public hearing referenced in Section 4 below.

**Section 2.** Moratorium. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, a zoning moratorium is hereby enacted in the City that prohibits the filing and acceptance of land use, business license, or other applications for, and the licensing (including business licensing), establishment, location, operation, maintenance or continuation of marijuana businesses, or any other marijuana activities and operations asserted to be authorized or actually authorized under Washington state Initiative No. 502 ("other marijuana

operations"). A "marijuana business" is marijuana producer, marijuana processor or marijuana retailer as defined in Initiative No.502.

Section 3. No Nonconforming Uses. No use that constitutes or purports to be a marijuana business or other marijuana operation that was engaged in prior to the passage of this Ordinance shall be deemed to have been legally established under the Lynnwood Municipal Code and shall not be entitled to legal nonconforming status.

Section 4. Public Hearing. As provided in RCW 35A.63.220 and RCW 36.70A.390, the City Council sets a public hearing for July 29, 2013, which shall begin at 7:00 p.m. or as soon thereafter as the business of the City Council shall permit, in order to take public testimony and consider adopting further findings justifying the imposition of the moratorium set forth in Section 2 above.

Section 5. Duration. The moratorium established in Section 2 above shall be in effect for a period of six (6) months from the effective date of this Ordinance (to and through December 24, 2013), and shall automatically expire on that date unless repealed, modified, or extended after subsequent public hearing and entry of appropriate findings of fact as provided in RCW 35A.63.220 and RCW 36.70A.390.


Section 6. Authorization of City Staff. The City Staff, upon the Mayor's approval and direction, are hereby authorized to research and analyze the extent and impact of Initiative 502, to consider and develop an appropriate regulatory framework for marijuana businesses and marijuana operations in the City, and to monitor and provide input into the rules being developed by the Washington State Liquor Control Board.

Section 7. Severability. If any section, subsection, sentence, clause, phrase, or word of this Ordinance should be held to be invalid or unconstitutional or inapplicable by a court of competent jurisdiction, such invalidity or unconstitutionality or inapplicability thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase, or word of this Ordinance.

Section 8. Emergency: Effective Date. This Ordinance, as a public emergency ordinance necessary for the protection of the public health, public safety, public property, or public peace, shall take effect and be in full force immediately upon its adoption. Pursuant to Matson v. Clark County Board of Commissioners, 79 Wn.App. 641, 904 P.2d 317 (1995), underlying facts necessary to support this emergency declaration are included in the recitals set forth above, which are adopted by reference.

PASSED by the City Council this 24th day of June, 2013, and signed in authentication of its passage this *Zlr* day of *Ju/lttC'*, 2013.

APPROVED:



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Don Gough, Mayor

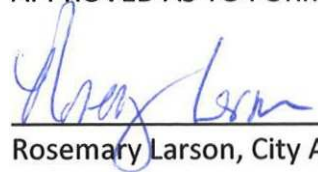
ATTEST/AUTHENTICATED:



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Lorenzo Hines Jr., Finance Director

APPROVED AS TO FORM:



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Rosemary Larson, City Attorney

FILED WITH ADMINISTRATIVE SERVICES: 06/24/2013  
PASSED BY THE CITY COUNCIL: 06/24/2013  
PUBLISHED: 06/28/2013  
EFFECTIVE DATE: 06/24/2013  
ORDINANCE NUMBER: 2998

**LYNNWOOD**  
WASHINGTON


On the, 24th day of June, 2013 the City Council of the City of Lynnwood, Washington, passed Ordinance No. 2998. A summary of the content of said ordinance, consisting of the title, provides as follows:

**ORDINANCE 2998**

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ADOPTING A MORATORIUM ON THE ACCEPTANCE AND FILING OF APPLICATIONS FOR, AND THE LICENSING, ESTABLISHMENT, LOCATION, OPERATION, MAINTENANCE AND CONTINUATION OF MARIJUANA BUSINESSES AND MARIJUANA OPERATIONS UNDER WASHINGTON STATE INITIATIVE NO. 502; SETTING A DATE FOR A PUBLIC HEARING ON THE MORATORIUM; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY; AND ESTABLISHING AN EFFECTIVE DATE.

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

DATED this 28th day of June, 2013.

  
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Lorenzo Hines Jr., Finance Director

**LYNNWOOD**  
WASHINGTON

**CERTIFICATE**

I, the undersigned, Lorenzo Hines Jr., the duly appointed City Clerk of the City of Lynnwood, Washington, hereby certify that the Ordinance hereto attached is a full, true and correct copy of Ordinance No. 2998 of the City of Lynnwood, Washington, entitled as follows:

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ADOPTING A MORATORIUM ON THE ACCEPTANCE AND FILING OF APPLICATIONS FOR, AND THE LICENSING, ESTABLISHMENT, LOCATION, OPERATION, MAINTENANCE AND CONTINUATION OF MARIJUANA BUSINESSES AND MARIJUANA OPERATIONS UNDER WASHINGTON STATE INITIATIVE NO. 502; SETTING A DATE FOR A PUBLIC HEARING ON THE MORATORIUM; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY; AND ESTABLISHING AN EFFECTIVE DATE.

That said ordinance was passed by the Council 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 28, 2013.



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

**LYNNWOOD**  
WASHINGTON

On the, 24<sup>th</sup> day of June, 2013 the City Council of the City of Lynnwood, Washington, passed ordinances: 2998 and 2999. A summary of the content of these ordinances, consisting of the title, provides as follows:

**ORDINANCE 2998**

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ADOPTING A MORATORIUM ON THE ACCEPTANCE AND FILING OF APPLICATIONS FOR, AND THE LICENSING, ESTABLISHMENT, LOCATION, OPERATION, MAINTENANCE AND CONTINUATION OF MARIJUANA BUSINESSES AND MARIJUANA OPERATIONS UNDER WASHINGTON STATE INITIATIVE NO. 502; SETTING A DATE FOR A PUBLIC HEARING ON THE MORATORIUM; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY; AND ESTABLISHING AN EFFECTIVE DATE.

**ORDINANCE NO. 2999**

AN INTERIM ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ADOPTING A MORATORIUM ON THE ACCEPTANCE AND FILING OF APPLICATIONS FOR, AND THE LICENSING, ESTABLISHMENT, LOCATION, OPERATION, MAINTENANCE AND CONTINUATION OF MEDICAL CANNABIS COLLECTIVE GARDENS; DEFINING "MEDICAL CANNABIS COLLECTIVE GARDENS;" SETTING A DATE FOR A PUBLIC HEARING ON THE MORATORIUM; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY; AND ESTABLISHING AN EFFECTIVE DATE.

The full text of these ordinances will be mailed upon request.

DATED this 28th day of June, 2013.

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Lorenzo Hines Jr., Finance Director



# Affidavit of Publication

STATE OF WASHINGTON,  
COUNTY OF SNOHOMISH

} S.S.

**1 - LYNNWOOD**

On the 21st day of June, 2013 the City Council of the City of Lynnwood, Washington, passed the following ordinances: 2980, 2990, 2991, 2992, 2993, 2994, 2995, 2996, 2997, 2998 and 2999. A full copy of the ordinance is on file in the City Clerk's office.

AN ORDINANCE AMENDING THE COMPREHENSIVE ARTERIAL AND STREET PLAN FOR THE CITY OF LYNNWOOD; ADOPTING A SIX YEAR COMPREHENSIVE TRANSPORTATION PROGRAM: 201-2016 FOR THE CITY OF LYNNWOOD TO BE FILED WITH THE DIRECTOR OF HIGHWAYS AND THE TRANSPORTATION IMPROVEMENT BOARD PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE, AND FOR SEVERABILITY.

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, PROVIDING FOR SUBMISSION OF A PROPOSITION TO THE QUALIFIED VOTERS OF THE CITY

A YND IRWF PREVIOUSLY AUTHORIZED EMERGENCY SERVICES, PROPERTY TAX LEVY RATE OF \$0.50 PER \$1000 ASSESSED VALUE FOR COLLECTION IN 2014 THROUGH 2023 AS PERMITTED BY LAW; SETTING FORTH THE BALLOT PROPOSITION; AND DIRECTING THE CITY FINANCE DIRECTOR TO PROVIDE THE COUNTY AUDITOR WITH A CERTIFIED COPY OF THIS ORDINANCE.

AN ORDINANCE OF LYNNWOOD WASHINGTON, ESTABLISHING PROJECT FUNDING FOR 53RD AVE W (206TH STREET SW TO 206TH STREET SW) STORM TREATMENT/ROADWAY MODIFICATIONS; AND AUTHORIZING EXPENDITURES IN UTILITY FUND 411; AND CONSISTENT WITH THE PROJECT FINANCIAL PLAN; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ESTABLISHING PROJECT FUNDING FOR THE 60TH AVENUE UTILITY AND ROADWAY REPAIRS PROJECT DESIGN PHASE; AND AUTHORIZING EXPENDITURES IN FUND 411; AND AS CONSISTENT WITH THE PROJECT FINANCIAL PLAN; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

AN ORDINANCE OF LYNNWOOD WASHINGTON, ESTABLISHING PROJECT FUNDING FOR 53RD AVE W (206TH STREET SW TO 206TH STREET SW) STORM TREATMENT/ROADWAY MODIFICATIONS; AND AUTHORIZING EXPENDITURES IN UTILITY FUND 411; AND CONSISTENT WITH THE PROJECT FINANCIAL PLAN; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

AN ORDINANCE OF LYNNWOOD WASHINGTON, ESTABLISHING PROJECT FUNDING FOR 53RD AVE W (206TH STREET SW TO 206TH STREET SW) STORM TREATMENT/ROADWAY MODIFICATIONS; AND AUTHORIZING EXPENDITURES IN UTILITY FUND 411; AND CONSISTENT WITH THE PROJECT FINANCIAL PLAN; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

AN ORDINANCE OF LYNNWOOD WASHINGTON, ESTABLISHING PROJECT FUNDING FOR 53RD AVE W (206TH STREET SW TO 206TH STREET SW) STORM TREATMENT/ROADWAY MODIFICATIONS; AND AUTHORIZING EXPENDITURES IN UTILITY FUND 411; AND CONSISTENT WITH THE PROJECT FINANCIAL PLAN; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

AN ORDINANCE OF LYNNWOOD WASHINGTON, ESTABLISHING PROJECT FUNDING FOR 53RD AVE W (206TH STREET SW TO 206TH STREET SW) STORM TREATMENT/ROADWAY MODIFICATIONS; AND AUTHORIZING EXPENDITURES IN UTILITY FUND 411; AND CONSISTENT WITH THE PROJECT FINANCIAL PLAN; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

AN ORDINANCE OF LYNNWOOD WASHINGTON, ESTABLISHING PROJECT FUNDING FOR THE WASTE WATER TREATMENT PLANT (WWTP) BUILDING REPAIRS AND RENOVATIONS; AND AUTHORIZING EXPENDITURES IN UTILITY FUND 411; AND CONSISTENT WITH THE PROJECT FINANCIAL PLAN; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

AN ORDINANCE OF LYNNWOOD WASHINGTON, PROVIDING FOR THE FUNDING OF THE SCADA PHASE 2 SYSTEM MODIFICATIONS CONSULTANT CONTRACT AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

AN ORDINANCE OF LYNNWOOD WASHINGTON, ADOPTING A MORATORIUM ON THE OPERATION, MAINTENANCE AND CONTINUATION OF MARIJUANA BUSINESSES AND MARIJUANA OPERATIONS UNDER WASHINGTON STATE INITIATIVE NO. 502 SETTING A DATE FOR A PUBLIC HEARING ON THE MORATORIUM; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY; AND ESTABLISHING AN EFFECTIVE DATE.

AN INTERIM MORATORIUM OF LYNNWOOD WASHINGTON, ADOPTING A MORATORIUM ON THE OPERATION MAINTENANCE AND CONTINUATION OF MEDICAL CANNABIS COLLECTIVE GARDENS; DEFINING A DATE FOR A PUBLIC HEARING ON THE MORATORIUM; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY; AND ESTABLISHING AN EFFECTIVE DATE.

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AN INTERIM MORATORIUM OF LYNNWOOD WASHINGTON, ADOPTING A MORATORIUM ON THE OPERATION MAINTENANCE AND CONTINUATION OF MEDICAL CANNABIS COLLECTIVE GARDENS; DEFINING A DATE FOR A PUBLIC HEARING ON THE MORATORIUM; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY; AND ESTABLISHING AN EFFECTIVE DATE.

The undersigned, being first duly sworn on oath deposes and says that she is the Principal Clerk of the Newspaper, a daily newspaper printed and published in the City of Everett, County of Snohomish, and State of Washington; that said newspaper is a newspaper of general circulation in said County and State; that said newspaper has been approved as a newspaper by order of the Superior Court of Snohomish County and that the notice

Ordinance Summaries

Ord. Nos: 2989, 2990, 2991, 2992,

2993, 2994, 2995, 2996, 2997,

2998 and 2999

in printed copy of which is heretofore attached. I have said newspaper proper and in supplement form, in the regular and entire edition of said paper on the following days and times, namely:

June 28, 2013

and that said newspaper was regularly distributed to its subscribers during all of said period.

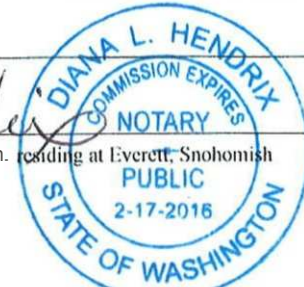
Principal Clerk

Subscribed and sworn to before me this

28th

day of June, 2013

Notary Public in and for the State of Washington, residing at Everett, Snohomish County.



Account Number: 127890

Order Number: 0001825274