



**LYNNWOOD**  
WASHINGTON

**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.**

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WHEREAS, certain possession or distribution of cannabis (marijuana) is a violation of state law pursuant to Chapter 69.50 RCW (Washington's Uniform Controlled Substances Act) and of federal law pursuant to the Controlled Substances Act; and

WHEREAS, in 1998 the voters of Washington State approved Initiative 692, now codified as Chapter 69.51A RCW, which created a limited defense to marijuana charges under state law (but not federal law) where the person charged could demonstrate that he or she was a qualifying patient or designated provider as those terms are defined in Chapter 69.51A RCW; and

WHEREAS, in 2011, the state legislature passed Engrossed Second Substitute Senate Bill (E2SSB) 5073, which makes significant amendments to the state medical cannabis law; and

WHEREAS, the Governor signed E2SSB 5073, but vetoed several portions, expressing her reservations about provisions that would involve state employees in activities that could be interpreted as a violation of federal laws; and

WHEREAS, E2SSB 5073 became effective on July 22, 2011 and was codified in Chapter 69.51A RCW; and

WHEREAS, Chapter 69.51A RCW authorizes medical cannabis collective gardens ("collective gardens") where up to ten qualifying patients may join together to produce, grow and deliver up to 45 cannabis plants for medical use; and

WHEREAS, Chapter 69.51A RCW does not limit the number of collective gardens that may be located at any site and does not restrict the location of collective gardens in relation to other uses; and

WHEREAS, collective gardens are not addressed in the Lynnwood Zoning Code; and

WHEREAS, pursuant to RCW 69.51A.140 cities may adopt zoning requirements for collective gardens; and

WHEREAS, unless a zoning moratorium is imposed, collective gardens could be located within the City while the City lacks the necessary tools to ensure the appropriate location of and minimize and mitigate the potential impacts of collective gardens; and

WHEREAS, the establishment of collective gardens have raised questions of land use compatibility and appropriate siting, and that other jurisdictions have identified concerns about location, dispersion, membership controls, security, utility provision, informed consent of property owners, and hours of operation, among other things; and

WHEREAS, the City of Seattle's zoning and licensing regulations for collective gardens have been challenged in Superior Court on the basis that there are alleged constitutional issues concerning license applications; and

WHEREAS, the Superior Court granted the City of Seattle's Motion for Summary Judgment, and dismissed the lawsuit on procedural grounds, stating specifically that the substantive issues in the lawsuit were not addressed; and

WHEREAS, the plaintiffs in the Seattle lawsuit did not appeal the Summary Judgment order, but have not yet pursued the substantive issues in the lawsuit; and

WHEREAS, federal prohibitions on profiting from drug sales raise issues regarding the ability to charge and collect license fees for collective gardens; and

WHEREAS, the City of Kent adopted a total ban on collective gardens, which is one viable option for regulating collective gardens that a number of cities in Washington have adopted; and

WHEREAS, the City of Kent's total ban on collective gardens was upheld by the Superior Court, but the decision was appealed and is being considered by the Washington Supreme Court; and

WHEREAS, Initiative 502 was approved by the voters at the November 2012 election and took effect on December 6, 2012; and

WHEREAS, Initiative 502 legalizes, taxes and regulates the use and possession of specified amounts of marijuana in Washington by persons twenty-one (21) years of age and older; and

WHEREAS, Initiative 502 does not address the State's medical cannabis rules, but raises additional questions regarding the role of the federal government in marijuana possession enforcement and the appropriate location and regulation of marijuana producers, processors, and retailers ("marijuana businesses") under Initiative 502; and

WHEREAS, Initiative 502 requires the Liquor Control Board (LCB) to establish criteria for licensing marijuana businesses by December 1, 2013; 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, federal enforcement of the Controlled Substances Act is still uncertain, as the Justice Department has not taken a position on federal preemption by the Controlled Substances Act of Chapter 69.51A RCW and Initiative 502; and

WHEREAS, given the complexity of the relevant issues and the recent developments on this topic, the City needs additional time to carefully and fully consider the appropriate location and regulation of collective gardens in the City (if any), in order to appropriately mitigate and minimize any impacts of such collective gardens; 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 collective gardens pending resolution of the appeal from the City of Kent's total prohibition on collective gardens, pending resolution of the substantive issues in the Superior Court challenge to the City of Seattle's zoning and licensing regulations, pending resolution of issues relating to Initiative 502, and to carefully consider land use regulations to address collective gardens; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorize the City to adopt a moratorium on development for six (6) 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 applications for, and the licensing, establishment, maintenance or continuation of, any medical cannabis collective garden. A "medical cannabis collective garden" is an area or garden where qualifying patients engage in the production, processing, transportation and delivery of cannabis for medical use as set forth in RCW 69.51A.085 and subject to the limitations therein.

**Section 3. Prohibition of Collective Gardens.** Medical cannabis collective gardens are hereby designated as prohibited uses in the City during the moratorium of this Ordinance. In accordance with RCW 35A.82.020 and Chapter 5.04 of the Lynnwood Municipal Code, no business license shall be issued to any person for a medical cannabis collective garden, which is hereby defined to be a prohibited use under the Lynnwood Municipal Code, including Lynnwood Zoning Code, and City ordinances during the moratorium of this Ordinance.

**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 and prohibition set forth in Sections 2 and 3 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 and directed to research and develop draft regulations regarding medical cannabis collective gardens.

**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 24<sup>th</sup> day of June, 2013, and signed in authentication of its passage this 26<sup>th</sup> day of June, 2013.

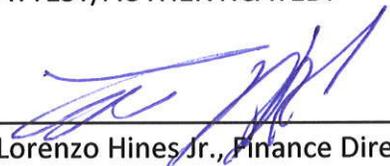
APPROVED:



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Don Gough, Mayor

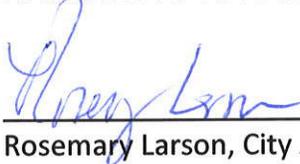
ATTEST/AUTHENTICATED:



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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: 2999



On the, 24<sup>th</sup> day of June, 2013 the City Council of the City of Lynnwood, Washington, passed Ordinance No. 2999. A summary of the content of said ordinance, consisting of the title, provides as follows:

**ORDINANCE 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 this ordinance will be mailed upon request.

DATED this 28<sup>th</sup> 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. 2999 of the City of Lynnwood, Washington, entitled as follows:

**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.**

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.

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

# Affidavit of Publication

STATE OF WASHINGTON,  
COUNTY OF SNOHOMISH }

S.S.



On the, 24th day of June, 2013 the City Council of the City of Lynnwood, Washington, passed the following ordinances: 2989, 2990, 2991, 2992, 2993, 2994, 2995, 2996, 2997, 2998 and 2999. A summary of the content of these ordinances, consisting of the full text, provides as follows:

**ORDINANCE NO. 2989**  
AN ORDINANCE AMENDING THE COMPREHENSIVE ARTERIAL AND STREET PLAN FOR THE CITY OF LYNNWOOD; ADOPTING A SIX YEAR COMPREHENSIVE TRANSPORTATION PROGRAM: 2014-2019 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 SUMMARY PUBLICATION.

**ORDINANCE NO. 2990**  
AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, PROVIDING FOR SUBMISSION OF A PROPOSITION TO THE QUALIFIED VOTERS OF THE CITY OF LYNNWOOD AT THE NOVEMBER 2013 ELECTION, THAT WOULD PERMIT THE CITY TO LEVY THE 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.

**ORDINANCE NO. 2991**  
AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ESTABLISHING PROJECT FUNDING FOR 53RD AVE W (208TH 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.

**ORDINANCE NO. 2992**  
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.

**ORDINANCE NO. 2993**  
AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ESTABLISHING PROJECT FUNDING FOR LIFT STATION 10 FLOOD PROTECTION; AND AUTHORIZING EXPENDITURES IN UTILITY FUND 411; AND CONSISTENT WITH THE PROJECT FINANCIAL PLAN; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

**ORDINANCE NO. 2994**  
AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ESTABLISHING PROJECT FUNDING FOR THE LIFT STATION 10 WET WELL MODIFICATIONS 2013; AND AUTHORIZING EXPENDITURES IN UTILITY FUND 411; AND CONSISTENT WITH THE PROJECT FINANCIAL PLAN; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

**ORDINANCE NO. 2995**  
AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ESTABLISHING PROJECT FUNDING FOR THE WATER TANK MODIFICATIONS AND REPAIRS 2013; AND AUTHORIZING EXPENDITURES IN UTILITY FUND 411; AND CONSISTENT WITH THE PROJECT FINANCIAL PLAN; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

**ORDINANCE NO. 2996**  
AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ESTABLISHING PROJECT FUNDING FOR THE WASTE WATER TREATMENT PLANT (WWTP) BUILDING REPAIR 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.

**ORDINANCE NO. 2997**  
AN ORDINANCE OF THE CITY 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.

**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.

Lorenzo Hines Jr., Finance Director

Published: June 26, 2013.

The undersigned, being first duly sworn on oath deposes and says that she is Principal Clerk of THE HERALD, 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 legal 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

a printed copy of which is herewith attached, was published in said newspaper proper and not 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.

*Waco Harris*

Principal Clerk

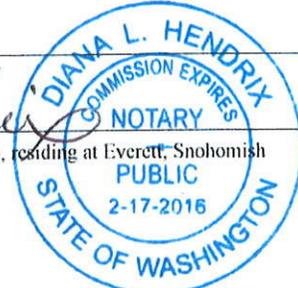
Subscribed and sworn to before me this

28th

day of June, 2013

*Diana Hendrix*

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



Account Number: 127890

Order Number: 0001825274