



**ORDINANCE NO. 3004**

**AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ADOPTING FINDINGS OF FACT SUPPORTING THE CITY'S 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; PROVIDING FOR SEVERABILITY; 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 issued initial draft rules, issued revised draft rules on July 3, 2013, and anticipates 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 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 impact of Initiative 502, determine the appropriate regulatory framework for the permitting, licensing and operation of marijuana businesses in the City, and monitor and possibly provide input into the rules being developed 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; and

WHEREAS, in Ordinance No. 2998, passed on June 24, 2013, the City Council deemed 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 under Initiative 502, pending consideration of land use regulations to address such marijuana businesses and marijuana operations; and

WHEREAS, on July 29, 2013, the City Council held a hearing on the imposition of the moratorium, at which time members of the public had the opportunity to be heard on the issue; now, therefore

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

**Section 1.** Establishment of Findings. Section 1 of Ordinance No. 2998 is amended to read as follows:

Findings. Based on the public testimony and other evidence submitted at the public hearing held on July 29, 2013, the City Council enters the following Findings of Fact to support the moratorium described in Section 2 of Ordinance No. 2998.

1. On July 29, 2013, the City Council held a public hearing on the 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, as imposed in Ordinance No. 2998 ("Moratorium").

2. The City Council considered testimony and other evidence regarding the Moratorium submitted by City staff at the July 29, 2013 hearing, including the materials and information provided in a staff report. At the hearing, members of the public had the opportunity to present testimony and other evidence regarding the imposition of the Moratorium.

3. 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").

4. 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 may be subject to prosecution under the CSA.

5. 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.

6. 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. 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

7. The LCB issued initial draft rules, recently issued revised draft rules on July 3, 2013, and anticipates adopting final rules in mid-August 2013, with an effective date in mid-September. 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. The LCB currently has a public hearing on the draft rules set for August 6 - 8, 2013.

8. 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. The LCB's revised draft rules provide definitions of some of these terms, but the definitions do not resolve all issues regarding the uses.

9. 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, or with local business license regulations. The LCB's draft rules do not expressly prohibit marijuana businesses from locating in residential zones, and other provisions in the draft rules may be inconsistent with provisions in the City's zoning or other regulations. These issues might be addressed by the LCB in its final rules.

10. 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. 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.

11. Since that LCB public work session, the City has received a number of inquiries from parties interested in locating marijuana businesses in the City. City staff have 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.

12. The regulation of marijuana businesses is a valid exercise of City police powers under Article XI, Section 11 of the State Constitution. In addition, 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.

13. 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.

14. 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.

15. 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.

16. Given the complexity of the relevant issues, the City needs time to carefully and thoroughly 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 possibly provide input into the rules being developed by the LCB. This work will involve analysis of the extent of the City's authority and potential for liability, if any, monitoring existing relevant court cases, reviewing regulations proposed or adopted by other local jurisdictions, drafting appropriate regulations, if any, conducting State Environmental Policy Act review, and conducting Planning Commission and City Council hearings.

17. On June 24, 2013, the City Council passed Ordinance No. 2998, imposing the Moratorium on the acceptance and filing of applications for, and the licensing, establishment, location, operation, maintenance and continuation of marijuana businesses and marijuana operations authorized or asserted to be authorized under Initiative 502. This Moratorium is necessary to preserve the integrity of the City's zoning code and related land use designations and other policies in the City's Comprehensive Plan.

18. 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, and the general welfare, including land use policies embodied in the City's Comprehensive Plan and zoning code, to adopt these Findings of Fact and to impose the Moratorium described above.

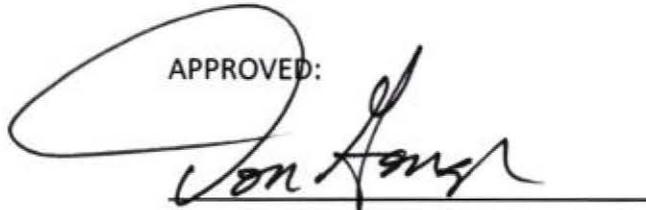
**Section 2. Severability.** If any section, subsection, sentence, clause, phrase, or word of this Ordinance should be held to be invalid or unconstitutional or inapplicable by a court of competent jurisdiction, such invalidity or unconstitutionality or

inapplicability thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase, or word of this Ordinance.

**Section 3. Effective Date and Summary Publication.** This Ordinance, or a summary thereof consisting of the title, shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

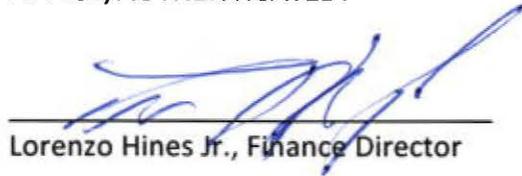
PASSED BY THE CITY COUNCIL, this 29<sup>th</sup> day of July, 2013, and signed in authentication of its passage this 5<sup>th</sup> day of August, 2013

APPROVED:

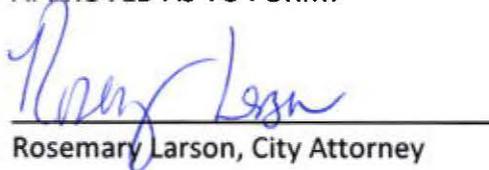


Don Gough, Mayor

ATTEST/AUTHENTICATED:

  
Lorenzo Hines Jr., Finance Director

APPROVED AS TO FORM:

  
Rosemary Larson, City Attorney

FILED WITH ADMINISTRATIVE SERVICES: 07/24/2013  
PASSED BY THE CITY COUNCIL: 07/29/2013  
PUBLISHED: 08/02/2013  
EFFECTIVE DATE: 08/07/2013  
ORDINANCE NUMBER: 3004



On the 29<sup>th</sup> day of July 2013, the City Council of the City of Lynnwood, Washington, passed Ordinance No. 3004. A summary of the content of said ordinance, consisting of the title, provides as follows:

**ORDINANCE NO. 3004**

**AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ADOPTING FINDINGS OF FACT SUPPORTING THE CITY'S 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; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

The full text of this ordinance will be mailed upon request or may be previewed at [www.ci.lynnwood.wa.us](http://www.ci.lynnwood.wa.us).

DATED this 2<sup>nd</sup> day of August, 2013



Lorenzo Hines Jr., City Clerk, and Finance Director

# Affidavit of Publication

STATE OF WASHINGTON,  
COUNTY OF SNOHOMISH

} S.S.

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:

3003, 3004, 3005, 3006,

3007, 3008, 3009

a printed copy of which is hereunto 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:

August 02, 2013

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

*Karen E. Zolner*

Principal Clerk

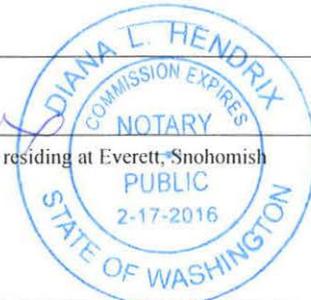
Subscribed and sworn to before me this

2nd

day of August, 2013

*Diana L. Hendrix*

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



Account Number: 127890

Order Number: 0001828704

**LYNNWOOD WASHINGTON**

On the, 29th day of July, 2013 the City Council of the City of Lynnwood, Washington, passed the following ordinances: 3003 and 3009. A summary of the content of these ordinances, consisting of the title, provides as follows:

ORDINANCE NO. 3003  
AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ADOPTING FINDINGS OF FACT SUPPORTING THE CITY'S MORATORIUM ON THE ACCEPTANCE AND FILING OF APPLICATIONS FOR, AND THE LICENSING, ESTABLISHMENT, LOCATION, OPERATION, MAINTENANCE AND CONTINUATION OF MEDICAL CANNABIS COLLECTIVE GARDENS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

ORDINANCE NO. 3004  
AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ADOPTING FINDINGS OF FACT SUPPORTING THE CITY'S 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; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

ORDINANCE NO. 3005  
AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, AMENDING SECTION 17.02.230 AND DELETING SECTION 17.02.250 OF THE LYNNWOOD MUNICIPAL CODE RELATING TO ENVIRONMENTAL REVIEW CATEGORICAL EXEMPTIONS AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

ORDINANCE NO. 3006  
AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ADOPTING THE 2012 EDITIONS OF THE INTERNATIONAL BUILDING CODE, THE INTERNATIONAL ENERGY CONSERVATION CODE, THE INTERNATIONAL RESIDENTIAL CODE, THE INTERNATIONAL SWIMMING POOL AND SPA CODE, THE INTERNATIONAL PROPERTY MAINTENANCE CODE, THE INTERNATIONAL MECHANICAL CODE, AND THE UNIFORM PLUMBING CODE; AMENDING THE CITY'S REGULATIONS FOR THE ABATEMENT OF UNSAFE STRUCTURES; AMENDING AND REPLACING CHAPTERS 16.04, 16.05, 16.08, 16.09, 16.24, 16.44, 15.04, AND 15.08 OF THE LYNNWOOD MUNICIPAL CODE; REPEALING CHAPTER 16.32 OF THE LYNNWOOD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

ORDINANCE NO. 3007  
AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, RELATING TO THE INTERNATIONAL FIRE CODE AS ADOPTED BY THE CITY; AMENDING TITLE 9 OF THE LYNNWOOD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

ORDINANCE NO. 3008  
AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ESTABLISHING PROJECT FUNDING FOR THE 48TH AVENUE W SIDEWALK PROJECT; AND SUPERCEDING ORDINANCE 2988, AND SUPERCEDING ORDINANCE 2945, AND SUPERCEDING ORDINANCE 2914, AND SUPERCEDING ORDINANCE 2892, AND AUTHORIZING EXPENDITURES IN PROJECT FUND 312, AND AUTHORIZING FUNDING TRANSFERS, ALLOCATIONS, AND REIMBURSEMENTS FROM FUND 150, 411, 419, AND FUND 441; AND CONSISTENT WITH THE PROJECT FINANCIAL PLAN; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

ORDINANCE NO. 3009  
AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ESTABLISHING PROJECT FUNDING FOR THE SCRIBER CREEK FLOOD REDUCTION STUDY PROJECT; AND AUTHORIZING EXPENDITURES IN FUND 411; AND AS CONSISTENT WITH THE PROJECT FINANCIAL PLAN; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

The full text of these ordinances will be mailed upon request.  
DATED this 2nd day of August, 2013.  
Lorenzo Hines Jr., Finance Director

Published: August 2, 2013.



**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. 3004 of the City of Lynnwood, Washington, entitled as follows:

### **ORDINANCE NO. 3004**

**AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ADOPTING FINDINGS OF FACT SUPPORTING THE CITY'S 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; PROVIDING FOR SEVERABILITY; 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 August 2, 2013.

  
\_\_\_\_\_  
Lorenzo Hines, Jr., City Clerk and  
Finance Director