

**ORDINANCE NO. 3446**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LYNNWOOD, WASHINGTON, REPEALING LYNNWOOD
MUNICIPAL CODE ("LMC") CHAPTER 10.42 USE OF DRUGS IN
PUBLIC; AMENDING LMC 10.02.010; AUTHORIZING REVISION;
PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE
DATE; AND PROVIDING FOR SUMMARY PUBLICATION**

WHEREAS, the City protects the public health, safety, and welfare through the adoption by reference and enforcement of numerous Washington criminal statutes, including without limitation applicable provisions of the Uniformed Controlled Substances Act (UCSA) codified at Chapter 69.50 RCW; and

WHEREAS, on February 25, 2021, the Washington Supreme Court issued its decision in *State v. Blake*, 197 Wn.2d 170 (2021), holding that RCW 69.50.4013(1), the Washington statute that criminalized the possession of a controlled substance without a prescription, exceeded the State's police power and violated the due process clauses of the Washington and United States Constitutions by creating a strict-liability felony offense; and

WHEREAS, on May 16, 2023, the Washington State Legislature passed, and Governor Inslee subsequently signed, Second Engrossed Second Substitute Senate Bill (2E2SSB) 5536, which permanently addresses the criminality of drug possession and use in Washington in the wake of the Washington Supreme Court's *State v. Blake* decision; and

WHEREAS, the City Council finds that it is in the interest of the public health, safety and welfare to provide its Police Department with the ability, to the fullest extent of the law, to enforce the prohibitions against knowing possession and knowing public use of controlled and counterfeit substances contained in 2E2SSB 5536, by adopting by reference the pertinent provisions of 2E2SSB 5536 into the Lynnwood Municipal Code (LMC);

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1: LMC Chapter 10.42 (Use of Drugs in Public), Repealed. Lynnwood Municipal Code Chapter 10.42 relating to Use of Drugs in Public is hereby repealed.

Section 2: LMC Section 10.02.010 (Statutory provisions – Adopted by reference – Scope),
Amended. The City Council wishes to adopt, by reference, the new law established by Second
 Engrossed Second Substitute Senate Bill (2E2SSB) 5536. Lynnwood Municipal Code Chapter
 10.02.010 which adopts the Revised Code of Washington by reference is hereby amended as
 set forth in Attachment A.

Section 3: Revisions Authorized. As of the date of adoption of this Ordinance, Laws of 2023, ch.
 1, § 9 (diversion) and Laws of 2023, ch. 1, § 10 (sentencing) have not yet been assigned
 permanent Revised Code of Washington (RCW) section numbers by the Washington State Code
 Reviser. The City Clerk and Code Publisher are hereby authorized and directed to update and
 replace the session law citations set forth in this ordinance with the applicable corresponding
 RCW section numbers after they have been assigned by the Washington State Code Reviser.

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance should be
 held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or
 unconstitutionality shall not affect the validity or constitutionality of any other section,
 sentence, clause or phrase or word of this ordinance.

Section 5. Effective Date. This ordinance or an approved summary thereof consisting of its title
 shall be published in the City's official newspaper of record and shall take effect and be in
 full force five days following its publication.

PASSED BY THE CITY COUNCIL, the 24th day of July 2023.

APPROVED:

DocuSigned by:

Christine Frizzell 8/31/2023

Christine Frizzell, Mayor

ATTEST/AUTHENTICATED:

DocuSigned by:

Luke Lonie

Luke Lonie, City Clerk

APPROVED AS TO FORM:

DocuSigned by:

Lisa Marshall

Lisa M. Marshall, City Attorney

ATTACHMENT A

10.02.010

Statutory provisions – Adopted by reference – Scope.

The following statutes are adopted by reference as and for a portion of the criminal ordinance and code of this city as if set forth in full herein, with the exception of the penalty provisions thereof which are superseded by the penalty provisions of this chapter as set forth in LMC 10.02.080, and which are made applicable to these statutes. Any reference to felonies or classification of felonies shall refer to the statutes of the state of Washington for definition and prosecution.

RCW

Preliminary Article

9A.04.050 People capable of committing crimes—Capability of child.

9A.04.060 Common law to supplement statute.

9A.04.070 Who amenable to criminal statutes.

9A.04.080 Limitation of actions.

9A.04.100 Proof beyond reasonable doubt.

9A.04.110 Definitions.

Principles of Liability

9A.08.010 General requirements of culpability.

9A.08.020 Liability for conduct of another—Complicity.

9A.08.030 Criminal liability of corporations and persons acting for them.

117 Insanity
118
119 9A.12.010 Insanity.
120
121 Defenses
122
123 9A.16.010 Defenses—Definitions.
124 9A.16.020 Use of force—When lawful.
125 9A.16.060 Duress.
126 9A.16.070 Entrapment.
127 9A.16.080 Action for being on store premises for investigation
128 “reasonable grounds” as defense.
129 9A.16.090 Intoxication.
130
131 Anticipatory Offenses
132
133 9A.28.020 Criminal attempt.
134 9A.28.030 Criminal solicitation.
135 9A.28.040 Criminal conspiracy.
136
137 Assault
138
139 9A.36.041 Assault in the fourth degree.
140 9A.36.050 Reckless endangerment.
141 9A.36.070 Coercion.
142 9A.36.150 Interfering with reporting domestic violence.
143 9A.40.070 Custodial interference second degree.
144
145 Harassment
146
147 9A.46.010 Legislative finding.

148	9A.46.020	Definitions—Penalties.
149	9A.46.030	Place where committed.
150	9A.46.040	Court-ordered requirements upon defendant—
151		Violation.
152	9A.46.050	Arrest—No-contact order.
153	9A.46.060	Crimes included in harassment.
154	9A.46.070	Enforcement of orders restricting contact.
155	9A.46.080	Order restricting contact violation.
156	9A.46.090	Nonliability of peace officer.
157	9A.46.100	“Convicted,” time when.
158	9A.46.110	Stalking.
159		
160		Inhaling Toxic Fumes
161		
162	9.47A.020	Unlawful inhalation exception.
163	9.47A.030	Possession of certain substances prohibited, when.
164	9.47A.040	Sale of certain substances prohibited, when.
165		
166		Arson, Reckless Burning, Malicious Mischief
167		
168	9A.48.010	Definitions.
169	9A.48.050	Reckless burning in second degree.
170	9A.48.060	Reckless burning—Defense.
171	9A.48.090	Malicious mischief in third degree.
172	9A.48.100	Malicious mischief—“Physical damage” defined.
173	9A.49.050	Reckless burning in second degree.
174		
175		Burglary and Trespass
176		
177	9A.52.010	Definitions.
178	9A.52.040	Inference of intent.

179	9A.52.050	Other crime in committing burglary punishable.
180	9A.52.060	Making or having burglary tools.
181	9A.52.070	Criminal trespass in the first degree.
182	9A.52.080	Criminal trespass in the second degree.
183	9A.52.090	Criminal trespass—Defenses.
184	9A.52.100	Vehicle prowling in the second degree.
185	9A.52.120	Computer trespass in the second degree.
186		
187		Theft and Robbery
188		
189	9A.56.010	Definitions.
190	9A.56.020	Theft—Definition, defense.
191	9A.56.050	Theft in the third degree.
192	9A.56.060	Unlawful issuance of checks.
193	9A.56.096	Theft of rental property.
194	9A.56.140	Possessing stolen property—Definitions—Access
195		devices, presumption.
196	9A.56.170	Possessing stolen property in the third degree.
197	9A.56.180	Obscuring the identity of a machine.
198	9A.56.220	Theft of subscription television services.
199	9A.56.240	Forfeiture and disposal of device used to commit
200		violation.
201	9A.56.260	Connection of channel converter.
202	9A.56.270	Shopping cart theft.
203	9A.56.330	Possession of another's identification.
204		
205		Fraud
206		
207	9A.60.010	Fraud—Definitions.
208	9A.60.045	Criminal impersonation in the second degree.
209	9A.60.050	False certification.
210		

211 Defrauding a Public Utility

212

213 9A.61.010 Definitions.

214 9A.61.020 Defrauding a public utility.

215 9A.61.050 Defrauding a public utility in the third degree.

216

217 Perjury and Interference with Official Proceedings

218

219 9A.72.010 Definitions.

220 9A.72.040 False swearing.

221 9A.72.140 Jury tampering.

222 9A.72.150 Tampering with physical evidence.

223

224 Obstructing Governmental Operations

225

226 9A.76.010 Definitions.

227 9A.76.020 Obstructing a law enforcement officer.

228 9A.76.030 Refusing to summon aid for a peace officer.

229 9A.76.040 Resisting arrest.

230 9A.76.050 Rendering criminal assistance definition of term.

231 9A.76.060 Relative defined.

232 9A.76.080 Rendering criminal assistance in the second degree.

233 9A.76.090 Rendering criminal assistance in the third degree.

234 9A.76.100 Compounding.

235 9A.76.130 Escape in the third degree.

236 9A.76.160 Introducing contraband in the third degree.

237 9A.76.170 Bail jumping.

238 9A.76.175 Making a false or misleading statement to a public
239 servant.

240

241 Abuse of Office

242

243 9A.80.010 Official misconduct.

244

245 Public Disturbance

246

247 9A.84.010 Riot.

248 9A.84.020 Failure to disperse.

249 9A.84.030 Disorderly conduct.

250 9A.84.040 False reporting.

251

252 Sexual Misconduct—Prostitution

253

254 9.68A.011 Definitions.

255 9.68A.090 Communicating with a minor for immoral purposes.

256 9.68A.110 Certain defenses barred, permitted.

257 9A.44.010 Definitions.

258 9A.44.096 Sexual misconduct with a minor in the second degree.

259 9A.88.010 Indecent exposure.

260 9A.88.030 Prostitution.

261 9A.88.050 Prostitution—Sex of parties immaterial—No defense.

262 9A.88.090 Permitting prostitution.

263 9A.88.110 Patronizing a prostitute.

264264

265 Extreme Risk Protection Orders

266266

267 7.94.010 Purpose—Intent.

268 7.94.020 Definitions.

269 7.94.030 Petition for order.

270 7.94.040 Hearings on petition—Grounds for order issuance.

271 7.94.050 Ex parte orders.

272 7.94.060 Service of orders.

273	7.94.070	Service by publication or mail.
274	7.94.080	Termination and renewal of orders.
275	7.94.090	Firearms—Surrender.
276	7.94.100	Firearms—Return—Disposal.
277	7.94.110	Reporting of orders.
278	7.94.120	Penalties.
279	7.94.130	Other authority retained.
280	7.94.140	Liability.
281	7.94.150	Instructional and informational material.
282	7.94.900	Short title—2017 c 3 (Initiative Measure No. 1491).
283		
284		Miscellaneous
285		
286	2.48.170	Only active members (of the state bar) may practice
287		(law).
288	2.48.180	Definitions—Unauthorized practice a crime—Causes
289		for discipline.
290	9.12.010	Barratry.
291	9.26A.120	Fraud in operation—Coin-box telephone or other
292		receptacle.
293	9.27.015	Harassing judge, juror, or witness.
294	9.38.010	False representation concerning credit.
295	9.38.015	False representation concerning deposit account
296		applicant.
297	9.69.100	Duty of witness of offense against child or any violent
298		offense—Penalty.
299	9.73.030	Recording conversation without consent.
300	13.32A.080	Harboring a runaway.
301	69.41.030	Sale, delivery, or possession of legend drug without
302		prescription or order prohibited—Exceptions—Penalty.
303	69.41.070	Illegal possession of steroids without prescription.
304	69.50.101	Uniform controlled substances act—Definitions.
305	69.50.102	Drug paraphernalia—Definitions.

306	69.50.202	Nomenclature.
307	69.50.204	Schedule I.
308	69.50.206	Schedule II.
309	69.50.208	Schedule III.
310	69.50.210	Schedule IV.
311	69.50.212	Schedule V.
312	69.50.401	Prohibited acts: A—Penalties.
313	<u>69.50.404</u>	<u>Penalties under other laws.</u>
314	<u>69.50.407</u>	<u>Conspiracy.</u>
315	69.50.4011	Counterfeit substances—Penalties.
316	69.50.4013	<u>Possession of controlled substance—Penalty—</u>
317		<u>Possession of useable cannabis, cannabis concentrates, or</u>
318		<u>cannabis-infused products—Delivery.</u>
319	69.50.4014	Possession of forty grams or less of marijuana—
320		Penalty.
321	69.50.412	Prohibited acts: E—Penalties.
322	69.50.4121	Drug paraphernalia—Selling or giving—Penalty.
323	69.50.505	Seizure and forfeiture.
324	<u>69.50.506</u>	<u>Burden of proof; liabilities.</u>
325	<u>69.50.509</u>	<u>Search and seizure of controlled substances.</u>
326	70.74.020	Delivery of explosives to a minor.
327	77.16.250	Loaded shotgun or rifle
328328		
329		<u>Laws of 2023, ch. 1, § 9.</u>
330		
331		<u>Laws of 2023, ch. 1, § 10.</u>