

ORDINANCE NO. 23-1675

AN ORDINANCE OF THE CITY OF LYNDEN AMENDING LYNDEN MUNICIPAL CODE CHAPTER 9.08 TO ADOPT PROVISIONS OF SB 5536 (“BLAKE FIX”), AMENDING THE TITLE OF RCW 69.50.412 AS IT APPEARS IN THE CODE, AND REPEALING 69.50.425 PURSUANT TO LEGISLATIVE CHANGES.

WHEREAS, In *State v. Blake*, 197 Wn. 2d 170 (2021), the Washington State Supreme Court found former RCW 69.50.4013 unconstitutional as a strict liability criminal offense;

WHEREAS, the “Blake Fix”, SB 5536, corrected presumed errors in the statute and was signed into law in May of 2023;

WHEREAS, the City of Lynden believes it is in the best interest of the citizens of the City of Lynden to adopt provisions of SB 5536 and allow local jurisdiction matters relating to prohibited drug possession to be prosecuted in the Municipal Court;

WHEREAS, RCW 69.50.412 was amended by the legislature in 2013 to provide exceptions for drug paraphernalia related to cannabis following its legalization;

WHEREAS, RCW 69.50.425 was repealed in 2015; and

WHEREAS, the foregoing recitals are material findings and declarations of the Lynden City Council;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and the City Council of the City of Lynden, as follows:

Section 1: Lynden Municipal Code Section 9.08.005 is hereby amended as follows:

9.08.005 - Adoption by reference.

The following provisions of the Revised Code of Washington as presently constituted or hereinafter amended are adopted by reference:

RCW 66.04.010 Definitions.

RCW 66.44.090 Acting without a license.

RCW 66.44.175 Violations of law.

RCW 66.44.180 General penalties—Jurisdiction for violations.

RCW 66.44.200 Sales to persons apparently under the influence of liquor.

- RCW 66.44.240 Drinking in public conveyance—Penalty against carrier.
- RCW 66.44.250 Drinking in public conveyance—Penalty against individual.
- RCW 66.44.270 Furnishing liquor to minors—Possession, use—Penalties—Exhibition of effects—Exceptions.
- RCW 66.44.290 Minors purchasing or attempting to purchase liquor.
- RCW 66.44.310 Minor frequenting off-limits area—Misrepresentation of age.
- RCW 66.28.200 Keg registration—Requirements of seller.
- RCW 66.28.210 Keg registration—Requirements of purchaser.
- RCW 66.28.230 Keg registration—Furnishing to minors—Penalties.
- RCW 69.50.101 Definitions.
- RCW 69.50.102 Drug paraphernalia—Definitions.
- RCW 69.50.4013 Possession of a controlled substance.
- RCW 69.50.4014 Possession of forty grams or less of marijuana—Penalty.
- RCW 69.50.412 Unlawful use of drug paraphernalia.
- RCW 9.47A.010 Inhaling Toxic Fumes—Definitions.
- RCW 9.47A.020 Unlawful inhalation—Exception.
- RCW 9.47A.030 Possession of certain substances prohibited, when.
- RCW 9.47A.040 Sale of certain substances prohibited, when.
- RCW 9.47A.050 Penalties.

Section 2. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have passed this code and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

Section 3. Any ordinance or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall be in full force and effect five (5) days after its passage, approval and publication as provided by law.

PASSED BY THE LYNDEN CITY COUNCIL THIS 6TH DAY OF NOVEMBER, 2023 BY A VOTE OF ___ IN FAVOR AND ___ AGAINST, AND SIGNED BY THE MAYOR THIS ___ DAY OF _____ 2023.

SCOTT KORTHUIS, MAYOR

ATTEST:

Pamela D. Brown, CITY CLERK

APPROVED AS TO FORM:

Robert A. Carmichael, CITY ATTORNEY