

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, ADOPTING REGULATIONS PERTAINING TO STATE-LICENSED MARIJUANA RETAILERS; AMENDING OLYMPIA MUNICIPAL CODE CHAPTER 18.51 TO PERMIT MARIJUANA RETAILERS IN ADDITIONAL ZONES; REDUCING BUFFERS TO FIVE HUNDRED FEET EXCEPT FOR ELEMENTARY AND SECONDARY SCHOOLS AND PLAYGROUNDS; AND REPEALING ORDINANCE NOS. 6851, 6873, 6900, 6929, 6959, 6980, and 6988.

WHEREAS, RCW 69.50.331(8)(a) provides that the Washington State Liquor and Cannabis Board may not issue a license for any marijuana retail premises within one thousand (1000) feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one (21) years or older; and

WHEREAS, a city is given authority by RCW 69.50.331(8)(b) to permit the licensing of marijuana premises within one thousand (1,000) feet but not less than one hundred feet of the facilities described in RCW 69.50.331(8)(a), except elementary schools, secondary schools, and playgrounds, which must remain at not less than one thousand (1000) feet of the perimeter of the grounds of such uses, by enacting an ordinance authorizing such distance reduction, provided that such distance reduction will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement interests, public safety, or public health; and

WHEREAS, with the exception required by state statute for elementary schools, secondary schools, and playgrounds, the City Council finds that reduction of the one thousand foot buffer from the uses set forth in RCW 69.50.331(8)(a) to five hundred feet, will not negatively impact the civil regulatory enforcement, criminal law enforcement interests, public safety, or public health; and

WHEREAS, the City Council finds that insufficient zones presently exist for the location of marijuana retail businesses within the City and that such retail uses should also be permitted in the HDC3 and MS zones; and

WHEREAS, adopting reductions in buffers authorized by state law will permit existing marijuana businesses to apply for licenses from the state, which, if granted, would allow such businesses to continue operating in their current Olympia locations; and

WHEREAS, on December 8, 2015, the City Council enacted Ordinance No. 6988, which adopted emergency interim zoning regulations pertaining to state-licensed producers, processors, and retailers of state-licensed recreational marijuana; and

WHEREAS, on February 9, 2016, the City Council held a public hearing to receive testimony from the public on the interim zoning regulations as required by state law; and

WHEREAS, a SEPA checklist was completed on December 15, 2016, and the 21-day comment period expired with no public comment; and

WHEREAS, the Olympia Planning Commission held a public hearing on the interim regulations on August 16, 2016, and after immediate deliberations, moved to recommend to the City Council that the interim regulations be adopted as permanent regulations; and

WHEREAS, based on the foregoing, the City Council finds it to be in the best interest of the City to adopt the interim regulations set forth in Ordinance No. 6988 as permanent regulations pertaining to state-licensed marijuana retailers, and amend Olympia Municipal Code Chapter 18.51 to permit marijuana retailers in additional zones and reduce buffers to five hundred (500) feet, except for elementary and secondary schools and playgrounds; and

WHEREAS, the City Council adopted Ordinance No. 6851 on May 7, 2013, imposing a moratorium on the establishment of medical cannabis collective gardens and other establishments involved in the sale, manufacturing, distribution, or use of marijuana because of the potential impact on the public health and welfare; and

WHEREAS, this Ordinance is adopted pursuant to Chapter 36.70A RCW and Article 11, Section 11 of the Washington State Constitution; and

WHEREAS, this Ordinance is supported by the staff report and materials associated with this Ordinance, along with other documents on file with the City of Olympia, and also supported by the professional judgment and experience of the City staff who have worked on this proposal;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC 18.51. Olympia Municipal Code Chapter 18.51 is hereby amended to read as follows:

**Chapter 18.51
STATE-LICENSED MARIJUANA PRODUCERS, PROCESSORS, AND
RETAILERS**

REGULATIONS

18.51.000 Chapter Contents

Sections:

- 18.51.010 Findings.
- 18.51.020 Purpose.
- 18.51.030 Definitions.
- 18.51.040 State-Licensed Marijuana Producer, Processor and Retailer Requirements.
- ~~18.51.050 Nuisance Abatement.~~

18.51.010 Findings

The City Council finds that nothing in this chapter 18.51 OMC shall be construed to supersede Washington State or federal law pertaining to the acquisition, possession, manufacture, sale or use of marijuana.

18.51.020 Purpose

The purpose of these regulations of state-licensed marijuana producers, processors, and retailers is to mitigate potential impacts on nearby properties of marijuana producers, processors, or retailers licensed or to be

licensed by the State of Washington Liquor ~~Control and Cannabis~~ Board and to promote the public health, safety, and welfare.

18.51.030 Definitions

- A. "Marijuana" shall have the definition as provided in RCW 69.50.101 ~~(s)~~(v) as it currently states or as may be amended.
- B. "Marijuana processor" shall have the definition as provided in RCW 69.50.101 ~~(t)~~(x) as it currently states or as may be amended.
- C. "Marijuana producer" shall have the definition as provided in RCW 69.50.101 ~~(u)~~(y) as it currently states or as may be amended.
- D. "Marijuana retailer" shall have the definition as provided in RCW 69.50.101 ~~(w)~~(bb) as it currently states or as may be amended.

18.51.040 State-Licensed Marijuana Producer, Processor and Retailer Requirements

- A. General requirements.

A marijuana producer, processor, or retailer licensed by the State of Washington Liquor ~~Control and Cannabis~~ Board shall be required to comply with all applicable regulations established by the City including, but not limited to, all building and fire code regulations and zoning regulations and shall be required to provide a copy of the state-issued license to the City upon request. A marijuana producer, processor, or retailer licensed by the State of Washington Liquor Control Board shall also be required to comply with all applicable state regulations and all requirements set forth in the state-issued license.

- B. Premises Requirements.

A recreational producer, processor, or retailer must operate in compliance with the following conditions:

1. From a public right-of-way, there shall be no exterior display of marijuana or marijuana cultivation visible outside of the premises.
2. The marijuana of a retailer, producer, or processor shall be entirely within a permanent enclosed structure with a roof. The structure shall comply with all applicable code requirements.
3. Areas where marijuana is grown, stored, or dispensed must be provided with ventilation systems so that no odors are detectable off the premises.
4. All premises must comply with the noise control requirements of the Olympia Municipal Code.

5. No minors shall be permitted on marijuana producer, processor, or retailer premises unless accompanied by a parent or guardian.
6. Consumption of marijuana, products containing marijuana or alcohol on the premises is prohibited, as are any other associated uses such as a smoking room, dance or performance space, private club, open-to-the-public nightclub, cabaret, tavern, or similar establishment.
7. All premises must have an operating security and alarm system that is monitored twenty-four (24) hours a day and that includes a video recording system that monitors production, storage, and point of sale areas. All video recordings must be continuously recorded twenty-four (24) hours a day and must be kept for a minimum of forty-five (45) days on the licensee's recording device. All videos are subject to inspection by the Olympia Police Department upon request.
8. A recreational retailer may be open only between the hours of 8 a.m. and 9 p.m.

C. City Zoning

1. State-Licensed Marijuana Retailers

i. No person may conduct business within the City of Olympia as a state-licensed marijuana retailer unless they are located within a HCD3, HDC4, MS or GC Zone in accordance with OMC Title 18, Unified Development Code and licensed under this chapter.

ii. No state-licensed marijuana retailer shall be permitted within five hundred (500) feet of the perimeter of the grounds of a recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one (21) years or older, with the exception of the elementary schools, secondary schools, and playgrounds, for which uses the distance shall remain at one thousand (1,000) feet.

iii. Waste products must be disposed of in a secure manner that would prevent exposure to the public or create a nuisance.

iiii. A retailer is required to obtain a conditional use permit approved by the Hearing Examiner pursuant to chapter 18.48 OMC.

2. State-Licensed Marijuana Producers and Processors

iv. No person may conduct business within the City of Olympia as a state-licensed marijuana producer or processor unless it is located within a light industrial zone in accordance with OMC Title 18, Unified Development Code, and licensed under this chapter.

vi. Waste products must be disposed of in a secure manner that would prevent exposure to the public or create a nuisance.

vii. A producer and/or processor is required to obtain a conditional use permit approved by the Hearing Examiner pursuant to chapter 18.48-OMC.

18.51.050 Nuisance Abatement

~~In addition to any other available remedy or penalty, any violation of this chapter, is declared to be a public nuisance per se, and may be abated under the applicable provisions of the Olympia Municipal Code and state law.~~

Section 3. Findings. The City Council hereby adopts the above recitals as findings of fact in support of this Ordinance.

Section 4. Repeal of Interim Regulations. Ordinance No. 6988 is hereby repealed.

Section 5. Repeal of Moratorium. Ordinance Nos. 6851, 6873, 6900, 6929, 5969 and 6980 are hereby repealed.

Section 6. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 7. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 8. Effective Date. This Ordinance shall take effect five (5) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Darren Nienaber DCA

CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED: