

ORDINANCE NO. _____

AN INTERIM ZONING ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON RELATING TO STATE-LICENSED MARIJUANA RETAILERS; AMENDING OLYMPIA MUNICIPAL CODE SUBSECTION 18.51.040.C TO PERMIT MARIJUANA RETAILERS IN ADDITIONAL ZONES; REDUCING BUFFERS TO FIVE HUNDRED FEET EXCEPT FOR ELEMENTARY AND SECONDARY SCHOOLS AND PLAYGROUNDS; AND DECLARING AN EMERGENCY.

WHEREAS, this Ordinance is adopted pursuant to Article XI, Section 11, of the Washington State Constitution; and

WHEREAS, RCW 35A.63.220 of the Optional Municipal Code provides a legislative body that adopts an interim zoning ordinance, shall hold a public hearing on the proposed interim zoning ordinance within at least sixty (60) days of its adoption, whether or not the legislative body received a recommendation on the matter from the planning agency; and

WHEREAS, the City Council shall conduct a public hearing on this interim zoning ordinance as provided by RCW 35A.63.220, for the purpose of taking public testimony regarding interim regulations pertaining to state-licensed retailers of marijuana and shall adopt findings of fact justifying its action either before this hearing or shall do so immediately after this public hearing; and

WHEREAS, pursuant to RCW 35A.63.220, an interim zoning ordinance adopted under this statute may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period; and

WHEREAS, RCW 69.50.331(8)(a) provides that the state liquor and cannabis board may not issue a license for any marijuana retail premises within one thousand 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 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 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 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, there is insufficient time between the effective date of the Liquor and Cannabis Board's rules and the Board's date for accepting additional marijuana retail applications for the City to go through the normal Growth Management Act development regulation adoption process; 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;

WHEREAS, state law governing the Liquor and Cannabis Board's processes and time limits for licensing retail marijuana businesses does not afford sufficient time to permit existing marijuana businesses to obtain licenses to operate in their current Olympia locations under existing zoning regulations, thereby creating an emergency which warrants interim regulation; and

WHEREAS, the City Council has studied the potential land use impacts associated with state-licensed marijuana retailers and has now prepared this Interim Ordinance to address these uses and impacts; and

WHEREAS, the City Council finds that it is necessary to adopt this Interim Ordinance to avoid unanticipated negative impacts on the community and to protect the public health, safety, and welfare associated with state-licensed marijuana retailers; and

WHEREAS, RCW 36.70A.390 provides that, "A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal . . . ;" and

WHEREAS, interim zoning controls enacted under RCW 35A.63.220 and/or RCW 36.70A.390 are methods by which local governments may preserve the status quo so that new plans and regulations will not be rendered moot by intervening development; and

WHEREAS, this Ordinance is supported by the staff report and attachments and documents on file with the City of Olympia and also by the professional judgment and experience of City staff; and

WHEREAS, by adopting these interim amendments to Olympia Municipal Code Section 18.51.040.C, the same penalties that apply elsewhere in Title 18 will also apply to these interim regulations ; and

WHEREAS, the City Council finds that the restrictions and requirements established by this Ordinance are necessary for the immediate preservation of the public peace, health, or safety and for the immediate support of city government and its existing public institutions;

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

Section 1. Amendment of OMC 18.51.040.C. There are hereby adopted interim amendments to Olympia Municipal Code Subsection 18.51.040.C to read as follows:

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

18.51.000 Chapter

Sections:

- 18.51.010 Findings
- 18.51.020 Purpose
- 18.51.030 Definitions
- 18.51.040 State-Licensed Marijuana Producers, Processors and Retailers 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 and Cannabis Control 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 and Cannabis Control 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 and Cannabis 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 HDC3, 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 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 years or older, with the exception of elementary schools, secondary schools, and playgrounds, for which uses the distance shall remain at one thousand feet.

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

‡ iv. 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.~~ v. 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.

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

~~v.~~ 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 2. Effective Date and Duration.

A. This Ordinance shall be effective five (5) days after publication.

B. This Ordinance shall be effective for one (1) year, unless subsequently extended by the City Council.

Section 3. Repeal of Moratorium. The moratorium imposed by Ordinance No. 6851 is repealed only to the extent that the activity is covered by this Ordinance, which addresses recreational sales, processing, and production of marijuana. Accordingly, the moratorium no longer applies to state-licensed retailers, producers, or processors of recreational marijuana. All other uses, including medical marijuana establishments, continue to be prohibited by the moratorium.

Section 4. Findings. The City Council adopts the recitals to this Ordinance as findings of fact in support of the enactment of this Interim Ordinance. The work plan is for staff to prepare and submit a draft set of regulations to the Olympia Planning Commission for their consideration and recommendation. City staff will then transmit its recommendation and the Planning Commission's recommendation to the City Council. Given the Planning Commission's full schedule, it is appropriate and necessary that this Ordinance be effective for one (1) year.

Section 5. Public Hearing. Pursuant to RCW 35A.63.220 and 36.70A.390, a public hearing will be held within sixty days after adoption of this Ordinance.

Section 6. Severability. If any provision of this Ordinance, or its application to any person, entity, or circumstance, is for any reason held invalid, the remainder of the Ordinance, or the application of the provisions to other persons, entities, or circumstances, is not affected.

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

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED: