

ORDINANCE 1312 – RECREATIONAL MARIJUANA

THE CITY OF WOODLAND, WASHINGTON

AN ORDINANCE TO AMEND WMC TITLE 17 – ZONING, AS IT RELATES TO RECREATIONAL MARIJUANA AND ADDING A NEW WOODLAND MUNICIPAL CODE CHAPTER TO TITLE 17 THAT DEALS WITH RECREATIONAL MARIJUANA.

WHEREAS, the Washington voters approved State of Washington Initiative 502 in 2012, which “authorizes the state liquor control board to regulate and tax marijuana for persons twenty-one years of age and older, and add a new threshold for driving under the influence of marijuana” (2013 c 3 §1 (Initiative Measure No. 502, approved November 6, 2012, codified in chapter 69.50 RCW));

WHEREAS, I-502 allows the Washington State Liquor Control Board to license marijuana producers “to produce marijuana for sale at wholesale to marijuana processors and other marijuana producers” (RCW 69.50.325(1));

WHEREAS, I-502 allows the Washington State Liquor Control Board to license marijuana processors to “process, package, and label usable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers” (RCW 69.50.325(2));

WHEREAS, I-502 allows the Washington State Liquor Control Board to license marijuana retailers to “sell usable marijuana and marijuana-infused products at retail in retail outlets” (RCW 69.50.325(3));

WHEREAS, under I-502, before the Washington State Liquor Control Board issues a new or renewed license to an applicant, it must give notice of the application to the chief executive officer of the City, and the City has the right to file written objections to such license, although the Board has the final decision regarding whether to issue a license (RCW 69.50.331(7));

WHEREAS, I-502 decriminalizes, for purposes of state law only, the production, manufacture, processing, packaging, delivery, distribution, sale, or possession of marijuana, as long as such activities are in compliance with I-502;

WHEREAS, the cultivation, possession, or distribution of cannabis marijuana and marijuana products has been and continues to be a violation of federal law through the Controlled Substances Act (CSA);

WHEREAS, the United State Department of Justice issued a memorandum on August 29, 2013, stating that in states where marijuana has been legalized for recreational purposes, it would prioritize enforcement of the CSA based on eight specific priorities, including but not limited to the prevention of distribution or use by minors, the avoidance of drugged driving and

the prevention of distribution or transport of marijuana products into states where it has not been legalized at the state level;

WHEREAS, the City does not have any regulations addressing the facilities or uses identified in I-502, other than the requirement for a general business license;

WHEREAS, the City adopted a first moratorium for recreational marijuana in November 2013, which expired on June 2, 2014;

WHEREAS, the City adopted a second moratorium for recreational marijuana in May 2014, which expires on December 2, 2014;

WHEREAS, in May 2014 the mayor appointed an ad-hoc committee consisting of three members of the City Council, the City Planner, City Attorney, and several City residents for the purpose of reviewing and drafting a recreational marijuana ordinance;

WHEREAS, the Planning Commission held workshops in August and September 2014 to review the proposed draft;

WHEREAS, a public hearing was held before the Woodland Planning Commission on October 16, 2014 and, following the hearing, the Commission made a motion to forward the ordinance to the Woodland City Council with an *Affirmative* recommendation;

WHEREAS, the City Council held a workshop to review the proposed draft on October 27, 2014;

WHEREAS, the City Council voted down these proposed regulations at first reading during the November 3, 2014 regular meeting;

WHEREAS, these regulations were brought back for reconsideration during the November 17, 2014 regular council meeting and passed as first reading with an amendment to allowable locations for producers/processors, and to ban retail sales;

WHEREAS, pursuant to RCW 35A.11.020 and the Constitution of Washington, Article 11, Section 11, cities have the power to enact regulations in the interest of the health, safety, and welfare of their residents;

WHEREAS, all procedural requirements of the Woodland Municipal Code (WMC) for these amendments have been met; and

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Woodland as follows:

Section 1. New Ordinance to be added to WMC Title 17 – Zoning

New Chapter 17.50 – to be added as a new WMC Chapter and to read as follows:

Chapter 17.50 – RECREATIONAL MARIJUANA

Sections:

17.50.010	Findings and Purpose
17.50.020	Definitions
17.50.030	Location Criteria for Recreational Marijuana Uses
17.50.040	Marijuana Uses Allowed in Identified Zones
17.50.050	Signs and Advertising
17.50.060	Security Requirements
17.50.070	Report of Disturbances and Unlawful Activity
17.50.080	Visibility of Activities; Control of Emissions
17.50.090	Enforcement

17.50.010 - Findings and Purpose

- A. The purpose of this chapter is to establish where marijuana producers, processors, and retail outlets may locate in the City, and to define the restrictions upon such uses.
- B. No part of this chapter is intended to or shall be deemed to conflict with federal law, including but not limited to, the Controlled Substances Act, 21 U.S.C. Section 800 et seq., the Uniform Controlled Substances Act (chapter 69.50 RCW) nor to otherwise permit any activity that is prohibited under either Act, or any other local, state, or federal law, statute, rule or regulation. Nothing in this chapter shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of marijuana in any manner not authorized by chapter 69.51A RCW or chapter 69.50 RCW. Nothing in this chapter shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or that creates a nuisance, as defined herein. It is the intention of the city council that this chapter be interpreted to be compatible with federal and state enactments and in furtherance of the public purposes that those enactments encompass.

17.50.020 - Definitions

- A. "Child Care Center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington State Department of Early Learning, under chapter 170-295 WAC.
- B. "Cultivation" means the planting, growing, harvesting, drying or processing of marijuana plants of any part thereof.

- C. "Deliver or Delivery" means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.
- D. "Elementary school" means a school for early education that provided the first four to eight years of basic education and recognized by the Washington State Superintendent of Public Instruction.
- E. "Game Arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.
- F. "Indoors" means within a fully enclosed and secure structure that complies with the Washington State Building Code, as adopted by the City, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessibly only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2" by 4" or thicker studs overlain with 3/8" or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.
- G. "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.
- H. "Marijuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. For the purposes of this chapter, "cannabis" or "marijuana" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
- I. "Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" does not include useable marijuana.
- J. "Marijuana, useable" means dried marijuana flowers. The term "usable marijuana" does not include marijuana-infused products.
- K. "Outdoors" means any location that is not "indoors" within a fully enclosed and secure structure as defined herein.
- L. "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision of agency or any other legal or commercial entity.
- M. "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides and other playground equipment, owned and/or managed by a city, county, state or federal government.
- N. "Process" means to handle or process cannabis in preparation for use.
- O. "Processor, marijuana" means a person licensed by the State Liquor Control Board to process marijuana into useable marijuana and marijuana-infused products, package and

label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products as wholesale to marijuana retailers.

- P. "Producer, Marijuana" means a person licensed by the State Liquor Control Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.
- Q. "Produce or Production" means to manufacture, plant, grow or harvest cannabis or marijuana.
- R. "Public Park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, state, federal government or metropolitan park district. Public park does not include trails.
- S. "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; premises where goods and services are offered to the public for retail sale; public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theaters, stores, garages, and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, buses, ferries, and other public conveyances of all kinds and character, and the depots, stops, and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.
- T. "Public Transit Center" means a facility located outside of the public right-of-way that is owned and managed by a transit agency or city, county, state or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.
- U. "Recreation center or facility" means a supervised center that provided a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state or federal government.
- V. "Retailer, Marijuana" means a person licensed by the State Liquor Control Board to sell useable marijuana and marijuana-infused products in a retail outlet.
- W. "Retail outlet" means a location licensed by the State Liquor Control Board for the retail sale of useable marijuana and marijuana-infused products.
- X. "Secondary School" means a high and/or middle school. A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington State Superintendent of Public Instruction.
- Y. "Useable cannabis or useable marijuana" means dried flowers of the Cannabis plant. The term "useable cannabis or useable marijuana" does not include marijuana-infused products or cannabis products.

17.50.030 - Location Criteria for Recreational Marijuana Uses

- A. No recreational marijuana producer, processor, or retail outlet may be located within one thousand feet of the perimeter of the grounds of any of the following:
 - a. Elementary or secondary school;
 - b. Playground;
 - c. Recreation center or facility;
 - d. Child care center;
 - e. Public park;
 - f. Public transit center;
 - g. Library
 - h. Any game arcade (where admission is not restricted to persons age twenty-one or older).
- B. No marijuana producer, processor or retail outlet may locate within any residentially zoned district or within any residential unit in the city.
- C. The distances described in subsections A and B above shall be computed by direct measurement as follows: the distance shall be measured as the shortest straight line distance from the property line or the licensed premises to the property line of the above listed facility or facilities.

17.50.040 - Marijuana Uses allowed in identified zones

- A. Recreational marijuana production and processing is a permitted use for those properties in the Light Industrial (I-1) and the Heavy Industrial (I-2) zoning districts that are located west of the railroad tracks, subject to compliance with this chapter and all other applicable Woodland Municipal Code requirements.
- B. Recreational marijuana retail outlets and retail uses are prohibited in all zoning designations.

17.50.050 - Signs and advertising

All signage and advertising for a recreational marijuana processor, producer or retail outlet shall comply with the applicable provisions of this code, the sign code, zoning code and WAC 314-55-155 (and all applicable rules for city, state, and federal regulations).

17.50.060 - Security Requirements

Security measures at all licensed premises shall comply with the requirements of WAC 314-55-083 (and all applicable rules for city, state and federal regulations).

17.50.070 - Report of Disturbances and Unlawful Activity

- A. All licensees and any agent, manager or employee thereof shall immediately report to the City of Woodland Police Department any disorderly act, conduct or disturbance and any unlawful activity committed in or on the licensed and permitted premises, including, but not limited to, any unlawful resale of marijuana, and shall also immediately report any such activity in the immediate vicinity of the business.
- B. Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises a sign with a minimum height of fourteen (14) inches and a minimum width of eleven (11) inches with each letter to be a minimum of one-half (1/2) inch in height, which shall read as follows:

WARNING:

The City of Woodland Police Department must be notified of all
disorderly acts, conduct or disturbances and
all unlawful activities which occur on or within the premises
of this licensed establishment.

- C. It shall not be a defense to prosecution of a code enforcement action under this Section that the licensee was not personally present on the premises at the time such unlawful activity, disorderly act, conduct or disturbance was committed; however, no agent or employee of the licensee shall be personally responsible for failing to report any disorderly act, conduct, or disturbance and any unlawful activity hereunder if such agent, servant or employee was absent from the premises at the time such activity was committed.

17.50.080 – Visibility of Activities; Control of Emissions

- A. A marijuana business must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.
- B. No recreational marijuana or paraphernalia shall be displayed or kept in a business so as to be visible from outside the licensed premises.
- C. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the recreational marijuana business must be in effect at all times. In the event that any odors, dust, fluids or other substances exit a recreational marijuana business, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for the immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

17.50.090 – Enforcement

- A. Violation of this chapter including the sign code or zoning code shall result in a Class 1 civil infraction as defined by RCW 7.80.120, with each day of violation being a separate infraction. The city may enforce this section pursuant to Chapter 7.80 RCW. For violations of WAC 314-55-155 and 314-55-525, the City may report the violation to the State Liquor Control Board.
- B. In addition to any other applicable remedy and/or penalty, any violation of this chapter is declared to be a public nuisance per se, and may be abated by the City under the applicable provisions of the Woodland Municipal Code or state law.
- C. Nothing in this chapter shall be construed as a limitation on the City's authority to abate any violation which may exist from the cultivation of marijuana from any location.

Section 2. Ordinance to be Transmitted. Pursuant to RCW 36.70A.106, this Ordinance shall be transmitted to the Washington State Department of Commerce as required by law.

Section 3. Findings and Conclusions Adopted. The City Council hereby adopts the recitals set forth above, as their Findings and Conclusions as required by RCW 36.70A.390.

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 of constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 5. Effective Date: This ordinance shall take effect immediate upon its passage and signing.

ADOPTED this 1st day of December, 2014.

CITY OF WOODLAND, WASHINGTON

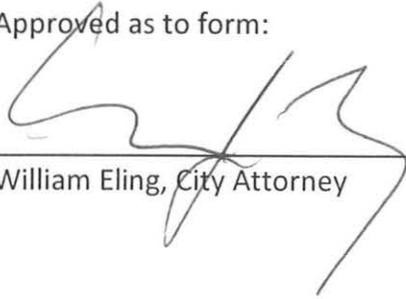
Approved:


Grover Laseke, Mayor

Attest:


Mari E. Ripp, Clerk / Treasurer

Approved as to form:

A handwritten signature in black ink, appearing to be 'W. Eling', written over a horizontal line.

William Eling, City Attorney

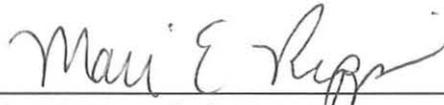
**SUMMARY OF ORDINANCE NO. 1312
OF THE CITY OF WOODLAND, WASHINGTON**

On December 2, 2014 the City Council of the City of Woodland, Washington, approved Ordinance No. 1312 the main point which may be summarized by its title as follows:

AN ORDINANCE OF THE CITY OF WOODLAND, WASHINGTON, TO AMEND WMC TITLE 17 – ZONING, AS IT RELATES TO RECREATIONAL MARIJUANA AND ADDING A NEW WOODLAND MUNICIPAL CODE CHAPTER TO TITLE 17 THAT DEALS WITH RECREATIONAL MARIJUANA AND AUTHORIZING A PUBLICATION BY SUMMARY.

The full text of this Ordinance will be mailed upon request.

APPROVED by the City Council at their meeting on 1st day of December, 2014.



Mari E. Ripp, Clerk-Treasurer

Published: December 10, 2014

Effective: Was effective immediately upon passage date of December 1, 2014