

CITY OF BUCKLEY, WASHINGTON

ORDINANCE NO. 11-17

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BUCKLEY, PIERCE COUNTY, WASHINGTON, ADOPTING A SIX-MONTH INTERIM ORDINANCE AMENDING THE CITY'S GENERAL REQUIREMENTS FOR USE AND SALE OF MARIJUANA TO ESTABLISH BUFFER REQUIREMENTS ALLOWED UNDER RCW 69.50.331 AND DECLARING AN EMERGENCY IN ORDER TO PROVIDE FOR AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the State legalized recreational and medical marijuana use in the State of Washington under Chapters 69.50 RCW and 69.51a RCW, and Chapter 314 WAC; and

WHEREAS, the City established companion regulations through adoption of Ordinance No. 22-15 (BMC 19.35) clarifying definitions and adding extra limitations concerning recreational and medical marijuana retail, production and processing; and

WHEREAS, WAC 314-55-050 originally stated that the Liquor Control Board could not issue a new marijuana license if the proposed licensed business is within 1,000 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; library; or any game arcade (where admission is not restricted to persons age twenty-one or older); and

WHEREAS, BMC 19.35 was adopted referencing the requirements under State law, which included the 1,000-foot buffer requirement; and

WHEREAS, recent legislation under RCW 69.50.331 and WAC 314-55-050(11) allows local governments to pass an ordinance to allow for a reduction in the 1000-foot buffer requirements to 100 feet around all entities except elementary and secondary schools and public playgrounds; and

WHEREAS, the City has two established marijuana retail businesses who have met all of the State and local licensing requirements and have been in operation for 2+ years; and

WHEREAS, City staff recently learned that due to zoning code conflicts, entities that are clearly identified under WAC 314-55-050 for buffer limitations are allowed within the same zoning district but have no restrictions on locating within this 1,000-foot buffer from an established “existing” licensed marijuana business; and

WHEREAS, based on clarification from agents from the Liquor Control Board, compliance with WAC 314-55-050 also pertains to renewal of existing licenses not simply to new marijuana licenses; and

WHEREAS, this could potentially result in the loss of a license from an established business if one of the uses/entities identified under WAC 314-55-050 for buffer limitations locates within the zone and buffer area; and

WHEREAS, in order to prevent this potential conflict the City Council desires to adopt emergency interim regulations that reduce the buffer as allowed under RCW 69.50.331 and WAC 314-55-050(11) and allow the Planning Commission and City Council to consider permanent regulations;

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

Section 1. Chapter 19.35.040 of the Buckley Municipal Code entitled “General requirements” is hereby amended to read as follows:

19.35.040 General requirements.

(1) All marijuana facilities shall be licensed by the State and must continually satisfy all of the requirements under regulations and rules promulgated by the State Liquor Control Board. The

state license shall be provided to the City prior to opening and placed in the appropriate address file.

(2) All marijuana facilities shall not be located within one thousand feet of the perimeter of the grounds of any elementary or secondary school or playground; or within one hundred feet 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.

(a) Licensees who apply for a marijuana license at a location less than one thousand feet from a recreation center or facility, child care center, public park, public transit center, library, or game arcade, must provide the Washington State Liquor Control Board (WSLCB) with a copy of this ordinance pursuant to WAC 314-55-050(11).

(3) Security shall be as specified in the State code.

(4) Fees shall be charged for each action or permit in accordance with City resolution.

(5) Hazardous materials that may be produced on site shall not enter the City's ecosystem, drainage system, or utility. All hazardous materials shall be disposed of in accordance with State regulations.

(6) Parking areas shall be supplied as required in Chapter 19.28 BMC and the uses' classification shall be as follows:

(a) Retail sales shall be considered "retail stores in general."

(b) Processing and producing shall provide one parking stall plus one parking stall for each 1,000 square feet of processing and/or production area.

(7) Landscaping shall be as required in Chapter 19.29 BMC.

(8) Signs shall be in accordance with Chapter 19.30 BMC and presented to the City for sign approval and may include design review.

(9) Marijuana producers, processors and retail sales shall incorporate odor control technology and provisions to ensure that emissions do not exceed regulations.

(10) All fertilizers, chemicals, gases and hazardous materials shall be handled in compliance with all applicable local, state and federal regulations. No fertilizers, chemicals, gases or hazardous materials shall be allowed to enter a sanitary sewer or stormwater sewer system or be released into the atmosphere outside of the structure where the operation is located.

(11) Odor control equipment shall be as approved by the Puget Sound Clean Air Agency.

Section 2. The City Council deems it to be in the public interest to establish this ordinance as an emergency interim ordinance in order to provide additional time for the Planning Commission and City Council to consider permanent regulations to address the issue of whether to adopt the reduced buffer requirements for marijuana facilities as allowed under RCW 69.50.331 and WAC 314-55-050(11).

Section 3. That as required by RCW 35A.63.220, the City Council hereby refers this interim ordinance to the Planning Commission to make a recommendation for permanent zoning regulations, if any, reducing buffer requirements for marijuana facilities as allowed under RCW 69.50.331 and WAC 314-55-050(11).

Section 4. That as required by RCW 35A.63.220, the City Clerk shall schedule a public hearing within 60 days of the adoption of this ordinance in order to take public testimony and to consider adopting further findings to justify the adoption of this ordinance.

Section 5. That this ordinance shall be transmitted to the Washington State Department of Commerce, pursuant to RCW 36.70A.106.

Section 6. Declaration of Emergency and Immediate Effective Date. That for the reasons identified in the whereas clauses of this ordinance, the City Council hereby finds and declares that an emergency exists and that the 180-day interim regulations adopted by this ordinance shall become effective immediately upon passage of this ordinance and that an immediate effective date and this declaration of emergency is necessary for the protection of the public health, public safety, public property and public peace. The findings adopted by this ordinance are further adopted in support of this declaration of emergency.

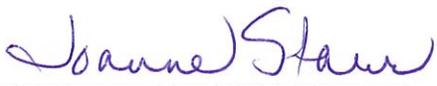
Section 7. If any provision of this ordinance is held invalid, such invalidity shall not affect any other provision, or the applications thereof, which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are to be declared severable.

APPROVED by the Buckley City Council this 25th day of April, 2017.



Mayor Pat Johnson

Attest:



Joanne Starr, City Clerk

APPROVED AS TO FORM:



Phil Olbrechts, City Attorney

PUBLISHED: May 3, 2017

EFFECTIVE: Immediately