

**CITY OF BUCKLEY, WASHINGTON**

**ORDINANCE NO. 19 -17**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BUCKLEY, PIERCE COUNTY, WASHINGTON, AMENDING THE CITY'S GENERAL REQUIREMENTS FOR MARIJUANA FACILITIES TO ESTABLISH BUFFER REQUIREMENTS ALLOWED UNDER RCW 69.50.331; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

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**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 1,000-foot buffer requirement 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 more than two years; and

**WHEREAS**, the city fails to define certain uses listed in the zoning use list that are affected by the state regulations; and

**WHEREAS**, a determination of non-significance was issued August 9, 2017, in accordance with the State Environmental Policy Act; and

**WHEREAS**, the request for expedited review was received August 1, 2017, by the Washington State Department of Commerce of the proposed change in development regulations under Material Identification Number (MID#) 23970; and

**WHEREAS**, the city was granted expedited review on August 16, 2017, from Washington State Department of Commerce of the proposed change in development regulations; and

**WHEREAS**, the planning commission conducted a public hearing on this proposal on October 16, 2017; and

**WHEREAS**, the planning commission considered documents and comments, and issues a recommendation to the city council to approve the proposed ordinance;

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

**Section 1.** Ordinance \_\_\_\_\_ is hereby repealed.

**Section 2.** BMC 19.12.151 is amended as follows:

**19.12.151 Day care, child day care center.**

“Child day care center” means a child care provider that regularly provides early childhood education, and/or early learning services for a group of children for periods of less than 24 hours. *To ascertain distances to day care centers from marijuana facilities, the definition in WAC 314-55-010(4) shall be used.*

**Section 3.** The following definition is added to Chapter 19.12, Definitions:

**19.12.xxx Library.**

*"Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.*

**Section 4.** The following definition is added to Chapter 19.12, Definitions:

**19.12.xxx Playground.**

*"Playground" means an outdoor recreation area, usually equipped with swings, slides, and other playground equipment.*

*(1) Public playgrounds are owned and/or managed by a city, county, state, or federal government.*

*(2) Private playgrounds are owned by a private entity, such as a home-owner's association and are not to be used to set back from marijuana facilities.*

**Section 5.** The following definition is added to Chapter 19.12, Definitions:

**19.12.xxx Park.**

*"Park" means all parks, squares, greenways, parkways, grounds or other areas devoted to purposes of play, recreation and pleasure.*

(1) Public parks are for the general public and are maintained, owned, and/or managed by a city, county, state, federal government, or metropolitan park district.

(2) Private parks are for members only as determined by the owner and maintained, owned, or managed by a private entity, sometimes for profit.

**Section 6.** The following definition is added to Chapter 19.12, Definitions:

**19.12.xxx Trail.**

"Trail" means any constructed pathway which has been designed for exclusive use of pedestrians, equestrians or bicyclists and specifically includes the Foothills Trail.

**Section 7.** The following definition is added to Chapter 19.12, Definitions:

**19.12.xxx Public transit center.**

"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.

**Section 8.** The following definition is added to Chapter 19.12, Definitions:

**19.12.xxx Recreation center or facility.**

"Recreation center or facility" means a supervised center that provides 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.

**Section 9.** BMC 19.12.520 is amended as follows:

**19.12.520 School.**

"School" means an institution of learning offering instruction in the several branches of learning and study required by the education code of the state to be taught in the public, private and parochial schools.

1. "Elementary school" means a school for early education that provides the first four to eight years of basic education and is recognized by the Washington state superintendent of public instruction.
2. "Secondary school" or "senior high school" means school for students who have completed their primary education and is recognized by the Washington state superintendent of public instruction, and is usually attended by children in grades nine to twelve.

**Section 10.** BMC 19.35.040, General requirements, is amended as follows:

(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 public playground; and shall adhere to the following setbacks from the following uses:

(a) Recreation center or facility: 100 ft

(b) Child care center: 100 ft

(c) Public park: 100 ft

(d) Public transit center: 100 ft

(e) Library: 100 ft

(f) Any game arcade admission to which is not restricted to persons aged twenty-one years or older: 100 ft

(g) Licensees who apply for a marijuana license at a location less than one thousand feet of 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.

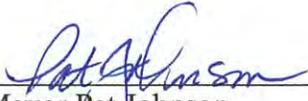
(11) Odor control equipment shall be as approved by the Puget Sound Clean Air Agency.

**Section 11.** That this ordinance shall be transmitted to the Washington State Department of Commerce, pursuant to RCW 36.70A.106.

**Section 12.** 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 24<sup>th</sup> day of October, 2017.

  
\_\_\_\_\_  
Mayor Pat Johnson

ATTEST:

  
\_\_\_\_\_  
Joanne Starr, City Clerk

APPROVED AS TO FORM:

  
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Phil Olbrechts, City Attorney

PUBLISHED: November 1, 2017

EFFECTIVE: November 6, 2017