

ORDINANCE NO. 2731

AN ORDINANCE CREATING CHAPTER 18.50 OF THE MOSES LAKE MUNICIPAL CODE ENTITLED "RECREATIONAL MARIJUANA BUSINESSES"

THE CITY COUNCIL OF THE CITY OF MOSES LAKE, WASHINGTON ORDAINS AS FOLLOWS:

Section 1. Chapter 18.50 of the Moses Lake Municipal Code entitled "Recreational Marijuana Businesses" is created as follows:

18.50.010 Intent: In November, 2012, Washington voters passed Initiative 502, which establishes precedent for the production, processing and retail sale of marijuana for recreational purposes. Pursuant to RCW Title 69 and the requirements of Chapter 314-55 WAC, the State has adopted rules establishing a state-wide regulatory and licensing program for recreational marijuana uses.

It is the intent of these regulations to ensure that such state-licensed uses are located and developed in a manner that is consistent with the desired character and standards of this community and its neighborhoods, minimizes potential incompatibilities and impacts, and protects the public health, safety and general welfare of the citizens of Moses Lake. Recognizing the voter-approved right to establish certain types of recreational marijuana businesses, it is also the intent of these regulations to provide reasonable access to mitigate the illicit marijuana market and the legal and personal risks and community impacts associated with it.

18.50.020 Applicability: The provisions of this Section shall apply only within the City limits as currently adopted. The specific development standards provided in this Section shall be in addition to the zoning and development standards generally applicable to the proposed use and the relevant zoning district.

- A. No use that purports to be a recreational marijuana producer, processor or retailer, as defined and regulated herein and in WAC 314-55, that was engaged in that activity prior to the enactment of this ordinance shall be deemed to have been a legally established use or entitled to claim legal non-conforming status.
- B. For purposes of this Section and the standards applicable to state-licensed recreational marijuana uses, the terms and definitions provided in RCW Title 69 and WAC 314-55 shall generally apply unless the context clearly indicates otherwise.

18.50.030 Definitions: All definitions used in this chapter apply to this chapter and only and, except as otherwise revised below, shall have the meaning established pursuant to RCW Title 69 and WAC 314-55, as the same exist now or as they may later be amended. Selected definitions have been included below for ease of reference.

- A. Marijuana or marihuana: Marijuana or marijuana as defined in RCW 69.50.101 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. The term 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.
- B. Marijuana Processor: Marijuana Processor as defined in RCW 69.50.101, 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 the sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

- C. Marijuana Producer: Marijuana Producer as defined in RCW 69.50.101, means a person licensed by the state liquor control board to produce and sell marijuana at whole sale to marijuana processors and other licensed marijuana producers.
- D. Marijuana-Infused Products: Marijuana-infused Products as defined in RCW 69.50.101, means products that contain marijuana or marijuana extracts, are intended for human use, and have a THC concentration greater than 0.3 percent and no greater than sixty percent. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates.
- E. Marijuana Retailer: Marijuana Retailer as defined in RCW 69.50.101, means a person licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet.
- F. Marijuana Production, Processing and Retail Sales: As used in this ordinance, any reference to marijuana production, processing and retail sales shall refer ONLY to RECREATIONAL marijuana production, processing and retail sales.
- G. Cultivation: Cultivation means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.
- H. Indoors: Indoors means within a fully enclosed and secure structure that complies with the International Building Code, as adopted by the City of Moses Lake, 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, accessible only through two or more lockable doors, and constructed of solid materials that cannot be easily broken through. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.
- I. Outdoors: Outdoors means any location that is not "indoors" within a fully enclosed and secure structure as defined herein.
- J. Useable Marijuana: Useable Marijuana means dried marijuana flowers. The term "useable marijuana" does not include marijuana-infused products.

18.50.040 Environmental performance standards:

- A. Failure of the enforcing officer to require such information shall not be construed as relieving the operator and/or the proprietor from compliance with the environmental performance standards of this title.
- B. Marijuana producers, processors and retail sales shall incorporate odor control technology and provisions to ensure that emissions do not exceed Washington Clean Air Act regulations as contained in Chapter 70.94 RCW.

18.50.050 Development requirements:

- A. Marijuana producers, marijuana processors, and marijuana retailers shall only be permitted as allowed under RCW 69.50 and WAC 314-55 and shall only be operated by persons or entities holding a valid marijuana license from the Washington State Liquor Control Board issued under Chapter 314-55 WAC and any other applicable state laws and regulations.
- B. Marijuana producers, marijuana processors, and marijuana retailers shall only be allowed within the City of Moses Lake municipal boundaries if appropriately licensed by the State of Washington and in possession of a current business license issued by the City of Moses Lake, and operated consistent with the requirements of the State and all applicable City ordinances, rules, requirements, and standards.

- 18.50.080 Off-Street Parking: Off-street parking shall be provided in accordance with MLMC Chapter 18.54.
- 18.50.090 Landscaping, Buffering, Fencing and Solid Waste Receptacles: Landscaping shall be provided in accordance with MLMC Chapter 18.57.
- 18.50.100 Building and Development Guidelines: Developments shall comply with the requirements of MLMC Chapter 16.02, Building Permits.
- 18.50.110 Site Plan Review: Commercial developments shall comply with the requirements of MLMC Chapter 18.49.
- 18.50.120 Security: Shall meet all security requirements as required by WAC 314-55-083 and shall provide proof of such operational security system prior to issuance of a business license. In addition to the security requirements in Chapter 314-55 WAC, during non-business hours, all recreational marijuana producers, processors, and retailers shall store all useable marijuana, marijuana-infused product, and cash in a safe or in a substantially constructed and locked cabinet. The safe or cabinet shall be incorporated into the building structure or securely attached thereto. For useable marijuana products that must be kept refrigerated or frozen, these products may be stored in a locked refrigerator or freezer container in a manner approved by the Director, provided the container is affixed to the building structure.
- 18.50.130 Violations: Violations of this chapter shall be subject to enforcement action as provided in the Uniform Controlled Substances Act, Title 69 RCW, as well as, subject to enforcement actions for violations of the Moses Lake Municipal Code.

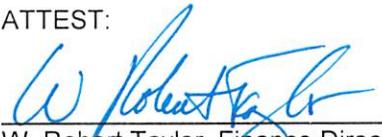
Section 2. Severability: If any section, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. This ordinance shall take effect and be in force five (5) days after its passage and publication of its summary as provided by law.

Adopted by the City Council and signed by its Mayor on September 23, 2014.


Dick Deane, Mayor

ATTEST:


W. Robert Taylor, Finance Director

APPROVED AS TO FORM:


Katherine L. Kenison, City Attorney

- C. Marijuana producers, marijuana processors, and marijuana retailers shall be the primary use at a location, and shall only be allowed within the City of Moses Lake in those zoning districts where it is specifically identified as an allowed use.
1. Marijuana retailers shall only be allowed in the C-1A Transitional Commercial and C-2 General Commercial and Business zones defined and identified in MLMC Chapter 18.30.
 2. Marijuana producers and processors shall only be allowed in the L-I Light Industrial Zone and the Moses Lake Industrial Park defined and identified in MLMC Chapter 18.40.
- D. The production, processing, selling, or delivery of marijuana, marijuana-infused products, or useable marijuana may not be conducted alone or in association with any business establishments, dwelling unit, or home occupation located in any of the following zoning districts in the City of Moses Lake:
- Business Park (BP)
 - Central Business District (C-1)
 - Conservation and Reclamation (C-R)
 - Heavy Industrial (H-I)
 - Neighborhood Commercial (NC)
 - Public (P)
 - Residential, Single Family (R-1)
 - Residential, Single Family and Duplex (R-2)
 - Residential, Multi-Family (R-3)
 - Rural Residential (R-4)
- E. Marijuana production and marijuana processing facilities shall be designed to include controls and features to prevent odors from traveling off-site and being detected from a public place, the public right of way, or properties owned or leased by another person or entity.
- F. Marijuana retailers shall not include drive-thru, exterior, or off-site sales. Marijuana retailers shall not be located in a mobile or temporary structure.
- G. In accordance with WAC 314-55-147, marijuana retail sales shall not be open to the public between the hours of 12 a.m. and 8 a.m.
- H. Signage for marijuana production, processing and retail businesses shall be subject to the requirements of WAC 314-55-155 and MLMC Chapter 18.58, whichever is more restrictive. No off-premises signage is permitted.
- I. Displays against or adjacent to exterior windows shall not include marijuana or marijuana paraphernalia.
- J. As provided in RCW 69.50.331 and WAC 314-55-050, marijuana producers, marijuana processors, and marijuana retailers, shall not be allowed to locate within 1,000 feet of public parks, playgrounds, recreation/community centers, libraries, child care centers, schools, game arcades and public transit centers. For purposes of this standard, these uses are defined in WAC 314-55. The methodology for measuring the buffers shall be as provided in WAC 314-55. It shall be the responsibility of the owner or operator of the proposed state-licensed marijuana use to demonstrate and ensure that a proposed location is not within one of the buffers.
- K. An existing non-conforming use located within a zoning district that would otherwise not permit marijuana uses, such as an old convenience store in a residential district, shall not be allowed to convert to a marijuana use.
- L. Marijuana producers, marijuana processors and marijuana retailers shall connect to all City of Moses Lake utilities.

- M. Marijuana production, processing and retail sales are not permitted as a home occupation under MLMC Chapter 18.55.
- N. Retail marijuana sales may not be located within any other businesses, and may only be located in buildings with other uses only if the marijuana business is separated by full walls and with a separate entrance. No more than one marijuana retail business shall be located on a single parcel.
- O. Marijuana production, processing and retail sales are subject to all applicable requirements of Title 69 RCW and Chapter 314-55 WAC and other state statutes, as they now exist or may be amended.
- P. Marijuana production, processing and retail sales must take place within fully enclosed and indoor facilities.
- Q. No marijuana production, processing, or delivery of marijuana shall be visible to the public nor may it be visible through windows. A screened and secured loading dock, approved by the Director shall be required. The objective of this requirement is to provide a secure, visual screen from the public right of way and adjoining properties, and prevent the escape of orders when delivering or transferring marijuana, useable marijuana, and marijuana-infused products.
- R. All marijuana producers, processors and retailers shall allow inspection of the site and facilities by City personnel including law enforcement for compliance with all applicable state and local permits and licenses at any time during regular business hours.
- S. An application for a recreational marijuana business shall include the following information in addition to any application requirements required by the underlying zone:
 - 1. The application shall be made by:
 - a. A marijuana State Liquor Control Board licensee; or
 - b. an applicant for a State Liquor Control Board marijuana license.The application shall include a copy of the State issued license or a copy of the license application on file with the State Liquor Control Board. A City business license shall not be issued for a recreational marijuana business unless the applicant is a State Liquor Control Board marijuana licensee;
 - 2. A map drawn to scale showing that the proposed recreational marijuana business is at least 1,000 feet from all uses specified in RCW 69.50.331 and WAC 314-55-050. A survey prepared by a surveyor licensed in the state of Washington may be required by the Director; and
- T. A recreational marijuana business shall meet all security requirements as required by WAC 314-55-083 and shall provide proof of such operational security system prior to issuance of a City business license.
- U. 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 storm sewer system, nor be released into atmosphere outside of the structure where the business is located.

18.50.060 Site Requirements: Shall meet all requirements set forth in the underlying zone.

18.50.070 Building Allowance, Height, Size, Placement, Setback Requirements: Shall meet all requirements set forth in the underlying zone.