

## **ORDINANCE NO. 1103**

### **AN ORDINANCE OF THE CITY OF COLLEGE PLACE, WASHINGTON, PROHIBITING USES WHICH ARE ILLEGAL UNDER LOCAL, STATE OR FEDERAL LAW IN ANY ZONE OF THE CITY AND APPLYING SUCH REGULATION TO RECREATIONAL MARIJUANA RETAIL SALES, PROCESSING AND PRODUCTION; AND FURTHER AMENDING SECTION 4 OF ORDINANCE NO. 824 AND SECTION 27.04 OF ORDINANCE 539, CODIFIED AS COLLEGE PLACE MUNICIPAL CODE SECTION 17.81.050**

**WHEREAS**, on November 6, 2012, the voters of the State of Washington approved Initiative Measure No. 502 ("Initiative 502") which decriminalized possession and use of marijuana for "recreational uses" and established a licensing protocol for marijuana production, processing, and retailing and tasking the Washington State Liquor Control Board with the responsibility to establish regulations and licensing marijuana products; and

**WHEREAS**, on October 14, 2013 the City Council of the City of College Place passed Ordinance No. 1092, establishing an immediate moratorium on the siting, establishing and operating of any structures or uses relating to marijuana production, processing or retailing; and

**WHEREAS**, on January 16, 2014, the Washington State Attorney General issued an opinion (AGO 2014-2) concluding that Initiative 502 does not preempt counties, cities and towns from banning marijuana production, processing, and retail businesses within their jurisdictions, and concluding that the issuance of a license from the Liquor Control Board does not entitle licensee to locate or operate a marijuana processing, producing, or retail business in violation of local rules or without necessary approval from local jurisdictions, concluding that local jurisdictions are permitted under the law to prohibit such activities; and

**WHEREAS**, on July 14, 2014 the City Council tasked the City Planning Commission with drafting zoning regulations addressing recreational marijuana production, processing and retailing; and

**WHEREAS**, on July 15, 2014 the City Planning Commission directed staff to draft zoning that would limit recreational marijuana production, processing and retailing to Light Industrial zones, require a Conditional Use Permit, restrict outdoor production and required 1,000 foot buffers from places of higher education, places of worship, and residential zoning districts in addition to the listed protected uses established by the Liquor Control Board; and

**WHEREAS**, on July 25, 2014 a public hearing notice was published in the Walla Walla Union Bulletin, posted on the City's website, City Hall, Fire Station and Annex building; and

Ordinance No. 1103 - Recreational Marijuana Ban

**WHEREAS**, on August 19, 2014, the Planning Commission conducted a public hearing for the purpose of determining the interest of the citizens of the City of College Place regarding zoning of recreational marijuana production, processing and sale within the City; and

**WHEREAS**, on August 19, 2014, the Planning Commission unanimously recommended to City Council that the City Council ban marijuana production facilities, marijuana processing facilities and marijuana retailing facilities within the City boundaries of College Place; and

**WHEREAS**, the general police powers of the City of College Place empower and authorize the City of College Place to adopt land use controls to provide for the regulation of land uses within the City and to provide that such uses shall be consistent with applicable law; and

**WHEREAS**, the City Council of the City of College Place finds and determines that Title 17 of the College Place Municipal Code should be amended to provide that no use in violation of local, state or federal law shall be allowed in any zone within the city, and that such amendment specifically applies to prohibit the retail sales, processing and production of recreational marijuana; and

**WHEREAS**, the City Council finds and determines that the regulation of marijuana for recreational purposes is subject to the authority and general police power of the City to develop specific and appropriate land use controls regarding such uses; and

**WHEREAS**, the City Council reserves its powers and authority to appropriately amend, modify and revise such prohibition to implement such land use controls in accordance with applicable law; and

**WHEREAS**, on September 8, 2014 the City Council conducted a legislative public hearing for the purpose of determining the interest of the citizens of the City of College Place regarding recreational marijuana production, processing and sale within the City; and

**WHEREAS**, the City Council finds and determines that approval of such amendments, prohibiting recreational production, processing, or retail sales as a land use, is in the best interest of residents of the City of College Place;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF COLLEGE PLACE, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

Ordinance No. 1103 - Recreational Marijuana Ban

**Section 1.** Ordinance No. 539 and Chapter 17.03 of the College Place Municipal Code are hereby modified by adding the following section to Chapter 17.03 (General Provisions) of the City's zoning code:

17.03.050 Marijuana related land uses prohibited.

Marijuana related land uses such as marijuana production, processing, retail sales as may be allowed by State law are expressly prohibited from locating or operating in any zone within the City of College Place.

17.03.060 Violation of local, state or federal law prohibited.

No land use in violation of local, state or federal law shall be allowed in any zone within the City of College Place and are hereby expressly prohibited.

**Section 2. Violation – Penalty.** Section 4 of Ordinance No. 824 and Section 27.04 of Ordinance 539, codified as College Place Municipal Code Section 17.81.050, are hereby amended as follows:

A. Except in the case of violations of Sections 17.54.020, 17.54.030 and 17.54.040, a violation of any provision of this title or any failure to comply with any of its requirements shall constitute a misdemeanor and shall be punished by a fine not to exceed one thousand dollars, or by imprisonment in jail for a period not to exceed ninety days, or by both such fine and imprisonment. Any person convicted of said misdemeanor shall pay all costs and expenses incurred and involved in the case. Persons violating Sections 17.54.020, 17.54.030 and 17.54.040 shall be guilty of an infraction punishable by a fine not to exceed \$100.00.

B. The owner or tenant of any building, structure, premises or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains the violation may each be found guilty of a separate offense and suffer the penalties provided in this section.

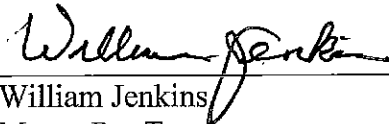
C. Nothing contained in this section shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation or to bring an action to enjoin any violation of this title.

**Section 3.** In the event that this ordinance imposes a greater restriction upon land, buildings, or structures than is imposed or required by other rules, regulations, standards, policies, ordinances, contracts, covenants public or private, deeds, or statutes lawfully adopted

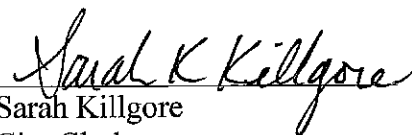
by the City of College Place, the provisions of this ordinance shall control, govern and take precedent. In the case of conflicts between this ordinance and other City ordinances, this ordinance shall govern and control unless otherwise stated.

**Section 4.** This ordinance shall be in full force and effect five days after passage and publication as required by law.

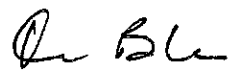
**PASSED** by the City Council of the City of The City of College Place, at its regular meeting of September 8, 2014.

  
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William Jenkins  
Mayor Pro Tem

ATTEST:

  
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Sarah Killgore  
City Clerk

APPROVED AS TO FORM:

  
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Charles B. Phillips  
City Attorney