CITY OF MOUNTLAKE TERRACE

ORDINANCE NO. 2634

AN ORDINANCE OF THE CITY OF MOUNTLAKE TERRACE, WASHINGTON, ESTABLISHING CITY BUSINESS LICENSE REQUIREMENTS TO IMPLEMENT INITIATIVE 502 BY AMENDING CHAPTER 5.05, CONDUCT OF BUSINESS, ADDING A NEW SECTION TO THE MOUNTLAKE TERRACE MUNICIPAL CODE AND AMENDING ORDINANCE NO. 2059 § 7, § 8, AND § 10

WHEREAS, Initiative 502 regarding marijuana was approved by the voters of Washington State, including the majority of Mountlake Terrace voters, in 2012; and

WHEREAS, Initiative 502 provides for the following three types of marijuana businesses: producing (i.e., growing), processing, and retail; and

WHEREAS, the U.S. Department of Justice issued a memorandum on August 29, 2013 identifying federal priorities for enforcing the Controlled Substances Act, related to Washington’s marijuana laws; and

WHEREAS, the Washington State Liquor Control Board adopted Chapter 314-55 WAC to establish rules regarding state licensing of marijuana businesses; and

WHEREAS, under Initiative 502 and Chapter 314-55 WAC, any marijuana business property must meet certain requirements, including to be located at least 1000 feet from any elementary or secondary school, playground, recreation center, child care center, park, transit center, and library, as well as from any game arcade not restricted to ages 21 or older; and

WHEREAS, the Washington State Liquor Control Board identified the possibility of one retail marijuana business store locating in Mountlake Terrace but did not set a specific limit on the number of businesses that may produce or process marijuana within the city; and

WHEREAS, a separate Ordinance has been drafted to amend Title 19 MTMC to establish zoning regulations for marijuana businesses; and

WHEREAS, this Ordinance has been drafted to provide for City business licensing of those marijuana businesses that have valid business licenses issued by the State pursuant to Chapter 314-55 WAC; and

WHEREAS, after public notice as required, a public hearing was held by the Planning Commission on November 12, 2013 to consider the proposed Business License Ordinance for Implementing I-502; and
WHEREAS, after public notice as required, a public hearing was held by the City Council on November 18, 2013 to consider the proposed Ordinance and relevant information; and

WHEREAS, the City Council has considered applicable laws, conditions, and public testimony related to marijuana businesses; and

WHEREAS, nothing in this Ordinance is intended nor shall be construed to authorize or approve of any violation of federal or state law, but is intended to set forth the conditions under which marijuana businesses shall not be subject to criminal enforcement action by the City of Mountlake Terrace. Notwithstanding the foregoing, the City will continue to enforce its nuisance laws and other regulations should the operation of a marijuana business violate such laws and regulations;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOUNTLAKE TERRACE DOES ORDAIN AS FOLLOWS:

Section 1. Section 5.05.035, “State marijuana license required for any marijuana business,” is hereby added to Mountlake Terrace Municipal Code Chapter 5.05 “to read as follows:

5.05.035 State marijuana license required for any marijuana business.

A. Businesses that are subject to the requirements of Chapter 314-55 WAC for marijuana businesses shall first obtain a valid business license issued by the State of Washington under the aforesaid chapter before obtaining a City business license or conducting a marijuana business in the City.

B. Documentation that the marijuana business has obtained a state marijuana business license under Chapter 314-55 is required prior to issuance of a city business license.

C. In addition to the standard business license fee, an application for a marijuana business license shall be accompanied by a one-hour fee, pursuant to the fees adopted under MTMC 3.150.090, to cover the City’s additional relevant costs, including but not limited to coordination with the state and research regarding required land use and distance separations.

Section 2. Ordinance No. 2059 § 7 and MTMC 5.05.080 is hereby amended to read as follows:

5.05.080 Exemptions.

Nothing in this chapter shall be construed to apply to:

A. Any activities carried on by a religious, charitable, benevolent, fraternal or social organization except when required by other ordinances of the City of Mountlake Terrace.

B. Any person who holds a valid license under Chapter 5.55 MTMC (Garbage Collection License), Article II (Natural Gas), of Chapter 3.145 MTMC and Article III (Telephone) of Chapter 3.145 MTMC.

C. Businesses exempted by state law from having a business license.
Section 3. Ordinance No. 2059 § 8 and Mountlake Terrace Municipal Code Section 5.05.090, "Conflict with Other Regulations," are hereby amended to read as follows:

5.05.090 Conflict with Other Regulations

Notwithstanding any contrary provisions hereof, a license hereunder shall not be issued to any person, firm or corporation that uses or occupies any real property in violation of the provisions of the Mountlake Terrace Municipal Code, and all amendments thereto.

Section 4. Ordinance No. 2059 § 10 and Mountlake Terrace Municipal Code Section 5.05.110, "Revocation of business license," are hereby amended to read as follows:

5.05.110 Revocation of business license.

The City Manager of the City of Mountlake Terrace shall have the power and authority to revoke any license issued under the provisions of this chapter. The City Manager shall notify such licensee in writing by certified mail of the revocation of his/her/its license and the grounds therefor. Any license issued under this title may be revoked based on one or more of the following grounds:

A. The license was procured by fraud or false representation of fact.
B. The licensee has failed to comply with any of the provisions of this chapter.
C. The licensee is in default in any payment of any license fee or tax due to the municipality pursuant to Mountlake Terrace City Code and/or provided for under state law.
D. Licensee’s continued conduct of the business for which the license was issued will result in a danger to the public health, safety, or welfare by reason of any of the following:
   1. The licensee, or his/her/its employees or agents have been convicted of a crime, which bears a direct relationship to the conduct of the business under the license issued pursuant to this chapter.
   2. The licensee, or his/her/its agent or employees, have in the conduct of the business, violated any law or ordinance relating to public health, welfare or safety.
   3. The conduct of the business for which the licensee was issued has resulted in the creation of a public nuisance as defined by state law.
E. Licensee’s relevant license from the State of Washington was revoked or has expired.

Section 5. Conflicts. All ordinances or parts of ordinances of the City of Mountlake Terrace in conflict herewith, be and the same, are hereby repealed.

Section 6. 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 section, sentence, clause or phrase of this Ordinance.

Section 7. Publication and Summary. This Ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication.
PASSED by the City Council of the City of Mountlake Terrace this 18th day of November 2013 and signed into authentication of its passage this 18th day of November 2013.

MAYOR JERRY SMITH

ATTEST: ____________________________
City Clerk

APPROVED AS TO FORM: Gregory G. Schrag, City Attorney