

ORDINANCE NO. 515-2016

AN ORDINANCE CREATING ELECTRIC CITY MUNICIPAL CODE CHAPTER 18.57  
TITLED, "MARIJUANA REGULATIONS"

THE CITY COUNCIL OF THE CITY OF ELECTRIC CITY, WASHINGTON ORDAINS AS  
FOLLOWS:

*Section 1. Creation.* Electric City Municipal Code Chapter 18.57 entitled "Marijuana  
Regulations" is hereby added to read as follows.

Sections:

- 18.57.010 Intent
- 18.57.020 Applicability
- 18.57.030 Definitions
- 18.57.040 Environmental Performance Standards
- 18.57.050 Medical Marijuana Collective Gardens
- 18.57.060 Medical Marijuana Cooperatives
- 18.57.070 Recreational Marijuana Buffers
- 18.57.080 Recreational Marijuana Development Requirements
- 18.57.090 Measurement of Distances
- 18.57.100 Nuisance Declared
- 18.57.110 Violations – Penalty

**18.57.010 Intent**

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 medical and 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 Electric City. Recognizing the voter approved right to establish certain types of medical marijuana operations and 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.

**18.57.020 Applicability.**

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.

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

### 18.57.030 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 315-55, as the same exist now or as they may later be amended. Selected definitions have been included below for ease of reference.

- 1) Marijuana or marihuana: Marijuana or marihuana 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.
- 2) Marijuana Processor: Marijuana Processor as defined in RCW 69.50.101, means a person licensed by the state liquor and cannabis board to process marijuana into marijuana concentrates, useable marijuana and marijuana-infused products, package and label marijuana concentrates, useable marijuana, and marijuana-infused products for the sale in retail outlets, and sell marijuana concentrates, useable marijuana and marijuana-infused products at wholesale to marijuana retailers.
- 3) Marijuana producer: Marijuana producer as defined in RCW 69.50.101, means a person licensed by the state liquor and cannabis board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.
- 4) 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.
- 5) Marijuana retailer: Marijuana retailer as defined in RCW 69.50.101, means a person licensed by the state liquor and cannabis board to sell marijuana concentrates, useable marijuana, and marijuana-infused products in a retail outlet.
- 6) 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.
- 7) Cultivation: Cultivation means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.
- 8) Indoors: Indoor means within a fully enclosed and secure structure that complies with the International Building Code, as adopted by the City of Electric City, that has a complete roof enclosure supported by connecting walls extending from the found 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.

- 9) Outdoors: Outdoors means any location that is not “indoors” within a fully enclosed and secure structure as defined herein.
- 10) Useable Marijuana: Useable Marijuana means dried marijuana flowers. The term “useable marijuana” does not include marijuana-infused products.
- 11) Designated Provider: See RCW 69.51A.010(1).
- 12) Qualifying Patient: See RCW 69.51A.010(4).
- 13) Recognition Card: Recognition card means a card issued to qualifying patients and designated providers by a marijuana retailer with a medical marijuana endorsement that has entered them into the medical marijuana authorization database.

**18.57.040 Environmental Performance Standards.**

- 1) 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.
- 2) 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.

**18.57.050 Medical Marijuana Collective Gardens**

No collective gardens as established under RCW 69.51A.085 shall be permitted in the City of Electric City.

**18.57.060 Medical Marijuana Cooperatives**

- 1) No more than four qualifying patients or designated providers may become members of a cooperative under section and all members must hold valid recognition cards. All members of the cooperative must be at least twenty-one years old. The designated provider of a qualifying patient who is under twenty-one years old may be a member of a cooperative on the qualifying patient’s behalf.
- 2) No person shall engage in a medical marijuana cooperative without first having obtained from the City a valid and current registration authorizing such person to engage in operation. This registration shall be in addition to any other registrations or permits required by State or Federal laws. Such registration is non-transferable.
- 3) Cooperatives shall not be located within one mile of a marijuana retailer.
- 4) No cooperative shall be permitted within one thousand (1,000) feet of any other medical marijuana cooperative.
- 5) Only one (1) cooperative is permitted on any one site.
- 6) No cooperative shall be permitted within one thousand (1,000) feet of any public parks, playgrounds, recreation/community centers, libraries, child care centers, schools, game arcades and public transit centers.

- 7) The location of the cooperative shall be the domicile of one of the participants.
- 8) The qualifying patients or designated providers of any cooperative shall not grow more than maximum of sixty plants or possess more than seventy-two ounces of useable marijuana.
- 9) The cultivation and processing of medical marijuana shall not be readily seen by normal unaided vision or readily smelled from a public place or the private property of another housing unit.

#### **18.57.070 Recreational Marijuana Buffers**

- 1) 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 1000 feet of playgrounds, elementary schools, or secondary schools
- 2) The City finds/ that the reduction in buffers for public parks, recreation/community centers, libraries, child care centers, game arcades and public transit centers will not negatively impact the City's civil regulatory enforcement, criminal law enforcement interests, public safety, or public health. Therefore, the City establishes the following buffers for marijuana producers, marijuana processors, and marijuana retailers:
  - a) Public Parks – one hundred (100) feet
  - b) Recreation or Community Centers – one hundred (100) feet
  - c) Libraries – one hundred (100) feet
  - d) Child Care Centers –one hundred (100) feet
  - e) Game Arcades –one hundred (100) feet
  - f) Public Transit Centers – one hundred (100) feet
- 3) For purposes of these standards, 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.

#### **18.57.080 Recreational Marijuana Development Requirements**

- 1) Marijuana producers and marijuana processors are prohibited in all zones.
- 2) 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.
- 3) Marijuana retailers shall only be allowed within the City of Electric City municipal boundaries if appropriately licensed by the State of Washington and in possession of a current business license issued by the City of Electric City and operated consistent with the requirements of the State and all applicable City ordinances, rules, requirements, and standards.
- 4) Marijuana retailers shall be the primary use at a location, and shall only be allowed within the City of Electric City in those zoning districts where it is specifically identified as an allowed use. Marijuana retailers shall only be allowed in the Commercial Zones defined and identified in ECMC Chapter 18.40.

- 5) The selling or delivery of recreational 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 Electric City: R-1, R-2, R-3 and S-1.
- 6) Marijuana retailers shall not include drive-thru, exterior, or off-site sales. Marijuana retailers shall not be located in a mobile or temporary structure.
- 7) 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.
- 8) Signage for marijuana retail businesses shall be subject to the requirements of WAC 314-55-155 and ECMC Chapter 18.60, whichever is more restrictive. No off-premises signage is permitted.
- 9) Displays against or adjacent to exterior windows shall not include marijuana or marijuana paraphernalia.
- 10) 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.
- 11) Marijuana retailers shall connect to all City of Electric City utilities.
- 12) Marijuana retail sales are not permitted as a home occupation under ECMC Chapter 18.40
- 13) 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.
- 14) Marijuana 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.
- 15) Marijuana retail sales must take place within fully enclosed secure indoor facilities.
- 16) No 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 Planning 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 product when delivering or transferring marijuana, useable marijuana, and marijuana-infused products.
- 17) All marijuana 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.
- 18) An application for a recreational marijuana business shall include the following information in addition to any application requirements required by the underlying zone:
  - a) The application shall be made by:
    - i) A marijuana State Liquor Control Board licensee; or

- ii) An applicant for a State Liquor Control Board marijuana license.
  - b) 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;
  - c) 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
- 19) 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. 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 Planning Director, provided the container is affixed to the building structure.
- 20) All chemicals, gases, and hazardous materials shall be handled in compliance with all applicable local, state and federal regulations. No 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.

**18.57.090 Measurement of Distances**

Any distance described in this chapter shall be computed by direct measurement as stated in WAC 314-55-050(10) as follows: the distance shall be measured as the shortest straight line distance between the property lines of the mentioned uses.

**18.57.100 Nuisance Declared**

Any violation of this section is declared to be a public nuisance per se, and shall be abated by the city attorney under applicable provisions of this code or state law, including, but not limited to, the provisions of Chapter 8.26 ECMC.

**18.57.110 Violations – Penalty**

In addition to other remedies provided for in this Chapter, any violation of the provisions of this Chapter shall constitute a civil infraction.

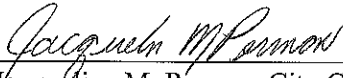
**Section 2. Effective date.**

This ordinance shall be in full force and effect five days after its passage and publication of its summary as provided by law.

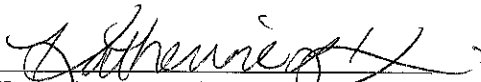
PASSED by the City Council of the City of Electric City, Washington, this 12<sup>th</sup> day of April, 2016.

  
John T. Nordine II, Mayor

ATTEST:

  
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Jacqueline M. Perman, City Clerk

APPROVED AS TO FORM:

  
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Katherine L. Kenison, City Attorney

PASSED the 12<sup>th</sup> day of April 2016.

APPROVED the 12<sup>th</sup> day of April 2016.

PUBLISHED the 20<sup>th</sup> day of April 2016.