

**CITY OF MOUNTLAKE TERRACE**

**ORDINANCE NO. 2635**

**AN ORDINANCE OF THE CITY OF MOUNTLAKE TERRACE,  
WASHINGTON, ESTABLISHING ZONING REGULATIONS TO  
IMPLEMENT INITIATIVE 502 AND CHAPTER 314-55 WAC FOR ANY  
MARIJUANA BUSINESSES BY ADDING A NEW CHAPTER 19.150 WITHIN  
THE MOUNTLAKE TERRACE MUNICIPAL CODE**

**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 (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 marijuana businesses and may begin accepting state business license applications on November 18, 2013; 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 City has mapped the 1000-foot buffer areas that apply to marijuana businesses and determined that only limited land areas are both outside a 1000-foot buffer and zoned for commercial or industrial use; and

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

**WHEREAS**, the City of Mountlake Terrace desires to keep marijuana businesses from locating within residences and residential zoning districts, as well as from locating inside any required 1000-foot buffer areas; and

**WHEREAS**, a separate ordinance has been drafted to amend Chapter 5.05 MTMC for business license requirements that implement Initiative 502; and

**WHEREAS**, this Ordinance has been drafted to establish zoning regulations for marijuana businesses, consistent with state statutes, and to protect the public health, welfare, and safety; and

**WHEREAS**, because Chapter 314-5 WAC, the state rules for marijuana businesses, were not adopted until October 16 and yet applicants may apply for state business licenses for marijuana businesses starting November 18, the City has moved forward expeditiously to consider adopting zoning regulations that are consistent with state rules for such businesses while more specific to Mountlake Terrace; and

**WHEREAS**, this Ordinance has been reviewed under the State Environmental Policy Act and a determination of non-significance issued for it; and

**WHEREAS**, this Ordinance amends Title 19, the Zoning Code, and is therefore subject to zoning amendment criteria pursuant to MTMC 19.110.240(C); and

**WHEREAS**, after public notification as required, the Planning Commission held a public hearing on the proposed Ordinance on November 12, 2013, considered the zoning text amendment criteria under MTMC 19.110.240(C), along with any public testimony and other relevant factors, and, following the public hearing, recommended approval of the proposed Ordinance to the City Council; and

**WHEREAS**, after public notification as required, the City Council held a public hearing on November 18, 2013, to consider the proposed Ordinance, the Planning Commission's recommendation, any public testimony and other relevant factors, including the need to provide for public health and safety, related to the zoning of marijuana businesses; and

**WHEREAS**, following the November 18, 2013 public hearing, the City Council found that the proposed Ordinance met the zoning text amendment criteria under MTMC 19.110.240(C) and otherwise appropriately addressed public health and safety issues consistent with state law; 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. Recitals.** The Recitals set forth above are hereby adopted and incorporated as Findings of Fact and/or Conclusion of Law of the City Council. The City Council bases its findings and conclusions on the entire record of testimony and exhibits, including all written and oral testimony before the Planning Commission and the City Council.

**Section 2.** Chapter 19.150, "Marijuana Businesses," of the Mountlake Terrace Municipal Code is hereby added to read as follows:

**Chapter 19.150**  
**MARIJUANA BUSINESSES**

Sections:

- 19.150.010 Purpose and intent.
- 19.150.020 Definitions.
- 19.150.030 Locations.
- 19.150.040 Special regulations.
- 19.150.050 Enforcement of violations.

**19.150.010 Purpose and intent.**

The purpose of this chapter is to establish zoning regulations that provide for marijuana businesses allowed under a voter-approved statewide initiative (Initiative 502), now codified in Title 69 RCW, and subject to requirements of Chapter 314-55 WAC.

**19.150.020 Definitions.**

The following definitions apply to this chapter. Additional definitions related to marijuana businesses are contained in WAC 314-55-010 and RCW 69.50.101.

"Business name" or "trade name" means the name of a licensed business as used by the licensee on signs and advertising.

"Child care center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours and is licensed by the Washington state department of early learning under Chapter 170-295 WAC.

"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.

"Game arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices.

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

"Marijuana" 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, or 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.

"Marijuana business" means any business that handles marijuana and is subject to Chapter 314-155 WAC.

"Marijuana processing business" means any business that engages in processing marijuana.

"Marijuana production business" means any business that engages in growing marijuana.

"Marijuana retail business" means an establishment engaged in selling marijuana to people for their personal or household use. It does not include businesses that produce or process

marijuana and do not sell it directly for personal or household use.

“Playground” means a public outdoor recreation area for children, usually equipped with swings, slides, or other playground equipment, owned and/or managed by a city, county, state, or federal government.

“Public park” means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district and does not include parcels that are primarily comprised of a trail or trails.

“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.

“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.

“Residence” means a building, dwelling unit or property where one or more persons may live or maintain an abode.

“Secondary school” means a high school and/or middle school, i.e., a school that is recognized by the Washington state superintendent of public instruction for the education of students, typically children, in grades seven to twelve who have completed their primary education.

#### **19.150.030 Locations.**

A. A marijuana business shall not be located within one thousand feet of the perimeter of the grounds of any of the following entities as defined in MTMC 19.150.020:

1. Elementary or secondary school;
2. Playground;
3. Recreation center or facility;
4. Child care center;
5. Park;
6. Transit center;
7. Library; or
8. Game arcade where admission is not restricted to persons age 21 and older.

B. For purposes of subsection A of this section, the distance shall be measured as the shortest straight line distance from the property line of each entity identified in subsection A of this section to the property line of the marijuana business.

C. A marijuana retail business is not permitted except where the City’s zoning regulations for the location allow retail as a primary use.

D. Neither a marijuana production business nor a marijuana processing business is permitted outside the Light Industrial/Office Park zoning district.

E. Marijuana businesses are not permitted as a home occupation under MTMC 19.120.230 and shall not operate at a residence as defined in this chapter.

#### **19.150.040 Special regulations.**

A. To operate within the City, each marijuana business is required to have a current business license issued by Washington State under the provisions of Chapter 314-55 WAC and a current business license issued by the City under the provisions of Chapter 5.05 MTMC.

B. A retail marijuana business shall not sell marijuana, marijuana-infused products, or marijuana paraphernalia or otherwise be open for business before 8 am or after 11:00 pm on any day.

C. For signage, marijuana businesses are subject to the requirements of Chapter 314-55-155 WAC and Chapter 19.135 MTMC, whichever is more restrictive. No off-premises signage is allowed.

D. No more than one retail marijuana business shall be allowed within the City.

E. A marijuana business must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.

F. Marijuana plants, products, and paraphernalia shall not be visible from outside the building in which the marijuana business is located.

G. Marijuana businesses are subject to all applicable requirements of the Mountlake Terrace Municipal Code, including but not limited to the Building Code (Chapter 15.05 MTMC) and the Fire Code (Chapter 15.10 MTMC), as now exists or may be amended.

H. Marijuana businesses 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.

**19.150.050 Enforcement of violations.**

Violations of this Chapter shall be subject to enforcement action as provided in Chapter 19.140 MTMC or, as applicable, the Uniformed Controlled Substances Act, Title 69 RCW. In addition, violations of this Chapter are deemed to be a public nuisance and may be abated under the procedures set forth in state law for the abatement of public nuisances.

**Section 3. Conflicts.** All ordinances or parts of ordinances of the City of Mountlake Terrace in conflict herewith, be and the same, are hereby repealed.

**Section 4. 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 5. 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 18<sup>th</sup> day of November 2013 and signed into authentication of its passage this 18<sup>th</sup> day of November 2013.

  
MAYOR JERRY SMITH

ATTEST:   
City Clerk

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