**CITY OF ILWACO**

**ORDINANCE NO. 880**

**AN ORDINANCE OF THE CITY OF ILWACO, WASHINGTON, AMENDING CHAPTER 15 AND EXTENDING BUSINESS HOURS FOR MARIJUANA RETAILER LICENSEE’S.**

**WHEREAS,** Chapter 15.56.030 allows for any person to request a development regulation amendment providing that the request is in compliance with the comprehensive plan; and

**WHEREAS,** the 2015 Ilwaco Comprehensive Plan specifically sites the importance of increased business opportunities by creating a year round economy while also respecting the rights of property owners when considering revisions to the development regulations; and

**WHEREAS,** the City of Ilwaco has published public notice of the Planning Commission meeting on January 30, 2018 whereat a recommendation to City Council was recorded, and on February 7 and 21, 2018 Public Notice was published of a Public Hearing to be held by City Council on February 26, 2018, and on February 7, 2018 a notice regarding the proposed amendment and public hearing was sent to all property owners within 300 feet of any marijuana retailer licensee; and

**WHEREAS,** it has been determined that the development regulation amendment request does not adversely impact the availability or capacity of capital facilities.

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

Section 1. Chapter 15.60 is amended to read as follows:

**MARIJUANA RELATED USES**

**Sections:**

**15.60.010 Intent.**

**15.60.020 Definitions.**

**15.60.030 State licensed facilities.**

The following regulations apply to marijuana related businesses licensed by the Washington State Liquor Control Board.

 A. Businesses that are licensed to produce, process, or sell marijuana shall be subject to all applicable standards of this title.

 B. Measures shall be implemented to prevent adverse health and safety effects to persons lawfully present on nearby properties that might be impacted by odors, noise, noxious gases, light, smoke and security.

 C. Outside lighting shall be shielded or positioned to prevent glare impacts to nearby properties.

 D. Security measures set forth in WAC 314-55-083 and this chapter must be met prior to the start of operations.

 E. All licensed marijuana production, processing, and retail facilities shall have a security system installed prior to the start of operation in accordance with this chapter and WAC 314-55-083 as amended.

 F. Businesses that are licensed to produce, process, or sell marijuana shall not be located within one thousand (1,000) feet of the perimeter of the grounds of any of the following entities. The distance shall be measured along the most direct route over or across established public walks, streets, or other public passageway between the proposed building/business locations to the perimeter of the grounds of the entities listed below as defined in WAC 314-55-010.

 1. Elementary or secondary school;

 2. Playground;

 3. Recreation center or facility;

 4. Child care center, including a child care center located in churches;

 5. Public park;

 6. Public transit center;

 7. Library;

 8. Game arcade;

 9. Any parcel containing a marijuana retail business.

 G. Businesses that are licensed to produce, process, or sell marijuana are prohibited from locating in zones not identified below for each specific use.

 H. Outdoor Advertising.

 1. One (1) sign, not exceeding one thousand six hundred (1,600) square inches (eleven point one (11.1) square feet), that is visible to the general public from a public right-of-way shall be permitted for advertising purposes. Advertising sign shall be subject to the standards of the Washington State Liquor Control Board and standards/processes under Chapter 15.45, whichever is more restrictive.

 2. “Minors restricted signs” shall be posted at all marijuana licensed premises.

 3. Off-premises signage is prohibited.

 I. Federal Regulations. State licensed marijuana producers, processors, and retailers are subject to applicable federal regulations in addition to the regulations of this chapter and those imposed by the Washington State Liquor Control Board. Issuance of a zoning permit by the city of Ilwaco under this chapter to operate a state licensed marijuana producer, processor and retailer within city jurisdiction does not constitute an exemption from federal laws nor does it authorize the use of a federally controlled substance regulated under the Controlled Substances Act by the city.

 J. Marijuana Licensed Retailer. State licensed marijuana retailers may locate within the city of Ilwaco pursuant to the following restrictions.

 1. Marijuana licensed retail establishments may be permitted with a conditional use permit in the following zoning districts: core commercial district (C-1) zone and low density commercial district (C-2) zone.

 2. Marijuana retailer licensee may sell useable marijuana, marijuana-infused products, and marijuana paraphernalia between the hours of eight a.m. and ~~eight~~ **TEN** p.m.

 3. A marijuana licensed retailer shall not locate in a building in which a nonconforming retail use has been established in any zone other than those referenced in subsection J1 of this section.

 4. A marijuana licensed retailer shall not be located within two hundred (200) feet of the perimeter of the grounds of any lot in a residential zone.

 5. Marijuana licensed retailer shall be subject to the following:

 a. Outside security lighting shall be installed which fully illuminates building access points such as doors and windows. Security lighting is not to be directed onto public roads or adjacent properties.

 b. Storage of useable marijuana and/or products outside of the primary retail building is prohibited.

 c. Businesses must front state highways or main streets.

 d. Parking areas shall be well lit and contain no benches, tables, or chairs placed on site by the licensee.

 e. Marijuana retail stores shall not occupy a residential structure that has been converted into a commercial use where the structure still appears to be a residential home.

 K. Marijuana Licensed Processors. State licensed marijuana processors may locate within the city of Ilwaco pursuant to the following restrictions.

 1. A marijuana licensed processor may be permitted with a conditional use permit in the following zoning districts: low density commercial district (C-2) zone and light industrial district (M-1) zone.

 2. A marijuana licensed processor shall not locate on a site or in a building in which a nonconforming processing use has been established in any zone other than those referenced in subsection K1 of this section.

 3. A marijuana licensed processor shall not be located within two hundred (200) feet of the perimeter of the grounds of any lot in a residential (R) zone.

 4. Marijuana licensed processor shall be subject to the following:

 a. Outside security lighting shall be installed which fully illuminates building access points such as doors and windows. Security lighting is not to be directed onto public roads or adjacent properties.

 b. Storage of useable marijuana and/or products outside of a fully enclosed and secured building is prohibited, except as allowed within an outside storage area during hours of operation.

 c. Outside storage areas associated with the processing of marijuana shall be positioned to the back half of the property and be fully enclosed by an eight (8) foot chain-link fence to include privacy screening. The top of the fence shall have three (3) spans of barbed wire strung and spaced equally apart over twelve (12) vertical inches and angled at a forty-five (45) degree away from the center (excluding corner posts) on both sides. One (1) spiral wound and clipped at the spiral overlaps shall be placed horizontally along the top of the fence between the two (2) forty-five (45) degree angled barbed wire strands. An equivalent alternative may be substituted for chain-link fence with approval of the city planner and chief of police or their designees. Outside storage areas shall be fully illuminated at night during hours of operation when used for temporary storage of marijuana and marijuana products.

 d. Marijuana processors shall not occupy a residential structure that has been converted into a commercial use where the structure still appears to be a residential home.

 L. Marijuana Licensed Producers. State licensed marijuana producers may locate within the city of Ilwaco pursuant to the following restrictions.

 1. Marijuana licensed producers may be permitted with a conditional use permit in the following zoning districts: low density commercial district (C-2) zone and light industrial district (M-1) zone.

 2. Marijuana licensed producers shall not locate on a site or in a building in which a nonconforming production use has been established in any location or zone other than those referenced in subsection L1 of this section.

 3. A marijuana licensed producer shall not be located within two hundred (200) feet of the perimeter of the grounds of any lot in a residential zone.

 4. Marijuana licensed producers shall be subject to the following:

 a. Outside security lighting shall be installed which fully illuminates building access points such as doors and windows. Security lighting is not to be directed onto public roads or adjacent properties.

 b. Storage of useable marijuana and/or products outside of a fully enclosed and secured building is prohibited, except as allowed within an outside storage area during hours of operation.

 c. Outside storage areas associated with the production of marijuana shall be positioned to the back half of the property and be fully enclosed by an eight (8) foot chain-link fence to include privacy screening. The top of the fence shall have three (3) spans of barbed wire strung and spaced equally apart over twelve (12) vertical inches and angled at a forty-five (45) degree away from the center (excluding corner posts) on both sides. One (1) spiral wound and clipped at the spiral overlaps shall be placed horizontally along the top of the fence between the two (2) forty-five (45) degree angled barbed wire strands. An equivalent alternative may be substituted for chain-link fence, with approval of the city planner and chief of police or their designees. Outside storage areas shall be fully illuminated at night during hours of operation.

 d. Growing of marijuana shall take place within a fully enclosed secure indoor facility or fully “secured greenhouse.” Growing of marijuana outside of a secured indoor facility is prohibited within city limits.

 e. Marijuana licensed indoor production facilities shall be limited to ten thousand (10,000) square feet of production space.

 f. Marijuana licensed producers shall not occupy a residential structure that has been converted into a commercial use where the structure still appears to be a residential home.

 M. Nuisance Abatement. In addition to any other available enforcement action, remedy or penalty under this title, any violation of this chapter is declared to be a public nuisance and subject to Chapter 8.18 (Health and Safety). (Ord. 831 § 1 (part), 2014)

**15.60.040 Site security and approval.**

**15.60.050 Severability.**

Section 2. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

Section 3. Referendum and Effective Date. This Ordinance, being an exercise of a power specifically delegated to the city legislative body, is not subject to referendum, and shall take effect and is in full force five (5) days after its passage, approval and publication of an approved summary of the title as provided by law.

**Passed by the City Council of the City of Ilwaco, AND SIGNED IN AUTHENTIFICATION OF ITS PASSAGE this 26th day of February, 2018.**

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Gary Forner, Mayor

ATTEST:

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Stephanie Davis, City Clerk

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| --- | --- | --- | --- | --- | --- | --- |
| VOTE | Oakes | Bageant | Marshall | Lessnau | Vacant | Forner |
| Ayes | X | X | X | X |  |  |
| Nays |  |  |  |  |  |  |
| Abstentions |  |  |  |  |  |  |
| Absent |  |  |  |  | X |  |

PUBLISHED: May 9, 2018

EFFECTIVE: May 14, 2018