ORDINANCE NO. 003-14


WHEREAS, in November of 2012, the Washington voters passed I-502, which directed the Washington State Liquor Control Board (LCB) to regulate recreational marijuana by licensing and taxing recreational marijuana producers, processors and retailers; and

WHEREAS, the regulatory scheme in I-502 required the LCB to adopt rules before December of 2013 to address: the methods for producing, processing and packaging of recreational marijuana; security requirements for retail outlets, retail outlet locations and hours of operation; labeling requirements; methods of transport of product throughout the state; taxing of marijuana-related activities; and the creation of a dedicated fund consisting of marijuana excise taxes, license fees, penalties and other income; and

WHEREAS, on September 4, 2013, the LCB issued proposed new regulations (the “Revised Proposed Rules”), which: prohibit the establishment of recreational marijuana businesses within 1,000 feet of certain identified sensitive uses; require criminal history background checks for licensees; establish qualifications for licensees; limit the amount of space available for recreational marijuana production; allow marijuana production to take place indoors in a fully enclosed, secure facility or outdoors enclosed by a physical barrier with an 8 foot high fence; limit the average inventory on the licensed premises at any time; limit the number of retailers within counties and cities within the counties based on estimated consumption and population data; establish insurance requirements for licensees; describe the security requirements, require employees to wear badges, and require alarm and surveillance systems on the licensed premises; require licensees track marijuana from seed to sale; establishes the manner in which free samples of marijuana may be provided; prohibit the sale of soil amendments, fertilizers and other crop production aids; identify transportation requirements, sign requirements, and recordkeeping
requirements; identify a mechanism for enforcement of violations, including the failure to pay taxes; specify marijuana infused product serving sizes, maximum number of servings and limitations on transactions; identify marijuana waste disposal restrictions; describe the process for quality assurance testing, extraction and the requirements for packaging and labeling; describe advertising limitations; and explain the process for license suspension, revocation and penalties for violations; and

WHEREAS, according to the Revised Proposed Rules, the LCB will determine whether the recreational marijuana business licensee is within 1,000 feet of the sensitive uses identified in WAC 314-55-050(10) and shall not issue the license if it is within this area; and

WHEREAS, the LCB held a hearing on the Revised Proposed Rules on October 9, 2013 and the Final Rules were adopted effective on November 16, 2013; license applications were accepted November 18 through December 19, 2013; and the first licenses were issued beginning on March 5, 2014; and

WHEREAS, on November 12, 2013, after a duly noticed public hearing, the Port Orchard City Council adopted interim regulations concerning the production, processing and retail sale of recreational marijuana and directed the planning commission to review the interim regulations and provide the City Council with a recommendation concerning the adoption of permanent regulations; and

WHEREAS, at its January 2014 meeting, the planning commission held a public hearing on a proposal to adopt the interim recreational marijuana regulations on a permanent basis and adopted Resolution 001-14 recommending that action to the City Council; and

WHEREAS, on March 7, 2014 the City’s SEPA official issued a mitigated determination of nonsignificance and there have been no appeals; and

WHEREAS, on April 22, 2014, the City Council held a duly noticed public hearing on the topic of the adoption of permanent recreational marijuana regulations; now, therefore,

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. The City Council adopts all of the “Whereas” sections of this Ordinance as findings in support of this Ordinance.
SECTION 2. The City Council adopts the Land Use Regulatory Code Amendments regarding recreational marijuana use as set forth in the attached Exhibit A.


SECTION 4. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of constitutionality of any other section, sentence, clause or phrase of this ordinance.

SECTION 5. This ordinance shall be in full force and effect five (5) days after posting and publication as required by law. A summary of this Ordinance may be published in lieu of the entire ordinance, as authorized by State Law.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the City Clerk in authentication of such passage this 22nd day of April 2014.

Timothy C. Matthes, Mayor

ATTEST:

Brandy Rinearson, CMC, City Clerk

APPROVED AS TO FORM: Sponsored by:

Gregory A. Jacoby, City Attorney Fred Chang, Councilmember
EXHIBIT A

Recreational Marijuana Uses
Interim Land Use Regulatory Code Amendments

16.08 Definitions
16.08.451 Marijuana. (new section)
16.08.452 Marijuana-infused products. (new section)
16.08.453 Marijuana processor. (new section)
16.08.454 Marijuana producer. (new section)
16.08.455 Marijuana retailer. (new section)

16.20 Property-Specific Designations – Overlay Districts
16.20.201 DOD – Permitted uses.

16.30 General Land Use Requirements – Tables
16.30.050 Table 16.30.050 – Manufacturing land uses.
16.30.090 Table 16.30.090 – Resource land uses.
16.30.100 Table 16.30.100 – Retail land uses.

16.39 Recreational Marijuana (new chapter)
16.39.010 Findings and purpose.
16.39.030 Location criteria.
16.39.040 Marijuana uses allowed in identified zones.
16.39.050 Business license required.
16.39.060 Signs and advertising.
16.39.080 Viability of activities; control of emissions.
16.39.090 No city liability; indemnification.
16.39.100 Adoption by reference.
Chapter 16.08
DEFINITIONS
***

16.08.451 Marijuana.
"Marijuana" shall mean 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. For the purposes of this Ordinance, "cannabis" or "marijuana" 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.

16.08.452 Marijuana-infused products.
"Marijuana-infused products" shall mean products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" does not include useable marijuana.

16.08.453 Marijuana processor.
"Marijuana processor" shall mean a person licensed by the State Liquor Control Board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products as wholesale to marijuana retailers.

16.08.454 Marijuana producer.
"Marijuana producer" shall mean a person licensed by the State Liquor Control Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

16.08.455 Marijuana retailer.
"Marijuana retailer" shall mean a person licensed by the State Liquor Control Board to sell useable marijuana and marijuana-infused products in a retail outlet.

16.08.456 Marina.
"Marina" shall mean a water-dependent facility that provides moorage, wet and/or dry storage, and other related sales and maintenance services, including but not limited to recreational services.
showers, toilets, self-service laundries, and boat fuel, for pleasure and commercial; does not include community and public docks, overhauls, engine pulling, or bottom painting. Live-aboards are permitted only in established marinas.

16.08.457 Marina – Boat repair.
“Marina – Boat repair” shall mean an establishment providing docking, moorage space and related activities limited to the provisioning or repair of pleasure and commercial boats and yachts, and personal services.

16.08.458 Marine cargo handling – Pier.
“Marine cargo handling – Pier” shall mean a fixed structure built over the water, used as a landing place for marine transport or for recreational purposes.

16.08.459 Marquee.
“Marquee” shall mean a permanent roof-like structure or canopy of rigid material supported by and extending from the facade of a building. Also see “Downtown marquee,” POMC 16.08.222.

* * *
Chapter 16.20

PROPERTY-SPECIFIC DESIGNATIONS – OVERLAY DISTRICTS

16.20.201 DOD – Permitted uses.

All uses listed below are permitted uses. No other uses shall be permitted in the central DOD, unless said use is accessory to the principal permitted use or uses. Uses within the east and west gateways may include uses allowed within the underlying zone or any of the central DOD uses.

(1) On lots that do not abut Bay Street the following are permitted uses:
   (a) Single-family attached dwellings.
   (b) Multifamily dwellings above the first floor, including but not limited to condominiums.
   (c) Amusement/entertainment including but not limited to theaters, bowling, amusement arcades; but excluding adult entertainment.
   (d) Barbers and beauticians.
   (e) Bed and breakfasts.
   (f) Boat dealers; provided no inventory shall be allowed on site.
   (g) Conference centers.
   (h) Daycare.
   (i) Dock.
   (j) Commercial recreation.
   (k) General business services.
   (l) Health services, including offices, patient clinics, and medical/dental laboratories.
   (m) Hotels and motels.
   (n) Library.
   (o) Liquor and wine stores.
   (p) Marinas and marine supply.
   (q) Museums.
   (r) Parks.
   (s) Parking lots and parking structures.
   (t) Post office.
   (u) Professional offices and services, including financial, accounting, and legal.
   (v) Public agency offices.
   (w) Retail sales and services listed as permitted uses in a commercial or mixed use zone in land use Tables 16.30.030 through 16.30.100, except for marijuana retailers, motor vehicle dealers, auto supply stores, gas stations, boat dealers, adult entertainment, and fuel dealers.
   (x) Trails.
   (y) Water transportation facilities.

(2) On lots that abut Bay Street the following are permitted uses:
(a) Single-family attached dwellings above the first floor.
(b) Multifamily dwellings above the first floor, including but not limited to condominiums.
(c) Amusement/entertainment including but not limited to theaters, bowling, amusement arcades; but excluding adult entertainment.
(d) Barbers and beauticians.
(e) Bed and breakfasts above the first floor.
(f) Boat dealers; provided no inventory shall be allowed on site.
(g) Conference centers.
(h) Daycare above the first floor.
(i) Dock.
(j) Commercial recreation.
(k) General business services, except bail bonds and similar uses under SIC Code 7389 are prohibited from the ground floor and must be located above the ground floor.
(l) Health services, including offices, patient clinics, and medical/dental laboratories above the first floor.
(m) Hotels and motels.
(n) Library.
(o) Liquor and wine stores.
(p) Marinas and marine supply.
(q) Museums.
(r) Parks.
(s) Parking lots and parking structures.
(t) Post office.
(u) Professional offices and services, including financial, accounting, and legal above the first floor.
(v) Public agency offices above the first floor.
(w) Retail sales and services listed as permitted uses in a commercial or mixed use zone in land use Tables 16.30.030 through 16.30.100, except for marijuana retailers, motor vehicle dealers, auto supply stores, gas stations, boat dealers, adult entertainment, and fuel dealers.
(x) Trails.
(y) Water transportation facilities.
(z) Tattoo parlors shall only be allowed above the first floor.
### Chapter 16.30

**General Land Use Requirements – Tables**

**16.30.050 Table 16.30.050 – Manufacturing land uses.**

<table>
<thead>
<tr>
<th>P = Permitted</th>
<th>C = Conditional</th>
<th>A = Administrative permit required</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Greenbelt</strong></td>
<td><strong>Residential – Mobile Home Park</strong></td>
<td><strong>Residential – 4.5 Units/Acre</strong></td>
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<td>20</td>
<td>Food processing and kindred products</td>
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<tr>
<td>*</td>
<td>Marijuana Processing</td>
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<td>2082/5</td>
<td>Winery/brewery</td>
<td>C</td>
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<tr>
<td>22</td>
<td>Textile mill products</td>
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<tr>
<td>23</td>
<td>Apparel and other textile products</td>
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<tr>
<td>24</td>
<td>Wood products except furniture</td>
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<tr>
<td>25</td>
<td>Furniture and fixtures</td>
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<tr>
<td>26</td>
<td>Paper and allied products</td>
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</tr>
<tr>
<td>27</td>
<td>Printing and publishing</td>
<td></td>
</tr>
<tr>
<td>28</td>
<td>Chemicals and allied products</td>
<td></td>
</tr>
<tr>
<td>29</td>
<td>Petroleum refining and related products</td>
<td></td>
</tr>
<tr>
<td>30</td>
<td>Rubber and miscellaneous plastics</td>
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<tr>
<td>31</td>
<td>Leather and leather goods</td>
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<tr>
<td>32</td>
<td>Stone, clay, glass and concrete products</td>
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<tr>
<td>33</td>
<td>Primary metal industries</td>
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<td>Fabricated metal products</td>
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<tr>
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<td>Industrial and commercial machinery</td>
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</tr>
<tr>
<td>351-56</td>
<td>Heavy machinery and equipment</td>
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<tr>
<td>357</td>
<td>Computer and office equipment</td>
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<tr>
<td>36</td>
<td>Electronic and other electric equipment</td>
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</tbody>
</table>

Recreational Marijuana – Exhibit A
Page 6 of 14
<table>
<thead>
<tr>
<th>P = Permitted</th>
<th>C = Conditional</th>
<th>A = Administrative permit required</th>
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</thead>
<tbody>
<tr>
<td>Greenbelt</td>
<td>Residential - Mobile Home Park</td>
<td>Residential - 4.5 Units/Acre</td>
</tr>
<tr>
<td></td>
<td>Residential - 8.0 Units/Acre</td>
<td>Residential - 12.0 Units/Acre</td>
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<tr>
<td></td>
<td>Residential - 20.0 Units/Acre</td>
<td>Commercial Retail and Office</td>
</tr>
<tr>
<td></td>
<td>Business Professional</td>
<td>Mixed Uses</td>
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<tr>
<td></td>
<td>Employment, Industrial and Office</td>
<td>Community Facilities</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th></th>
<th>Gb</th>
<th>RMH</th>
<th>R4.5</th>
<th>R8</th>
<th>R12</th>
<th>R20</th>
<th>Co</th>
<th>BP</th>
<th>Mxd</th>
<th>Eo</th>
<th>Cf</th>
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<td>Railroad equipment</td>
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<td>C</td>
</tr>
<tr>
<td>376</td>
<td>Guided missile and space vehicle parts</td>
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<tr>
<td>379</td>
<td>Miscellaneous transportation vehicles</td>
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<td>P</td>
</tr>
<tr>
<td>38</td>
<td>Measuring and controlling instruments</td>
<td>P</td>
<td>P</td>
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<tr>
<td>39</td>
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<td>C4</td>
<td>C4</td>
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<tr>
<td>*</td>
<td>Motor vehicle and bicycle manufacturing</td>
<td>C4</td>
<td>C4</td>
<td>C4</td>
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<tr>
<td>*</td>
<td>Aircraft, ship and boat building</td>
<td>C4</td>
<td>C4</td>
<td>C4</td>
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<tr>
<td>7534</td>
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<td>781-82</td>
<td>Movie production/distribution</td>
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</tbody>
</table>

Note: All applicable requirements of this title, or other applicable state or federal requirements, shall govern a use located within the Port Orchard incorporated area in addition to those described in the notes following.

1. Limited to agricultural products grown on-site, provided structures and areas used for processing shall maintain a minimum distance of 75 feet from property lines adjoining residential zones.
2. Except slaughterhouses.
3. Limited to uses found in SIC industry groups 2434 – Wood kitchen cabinets and 2431 – Millwork (excluding planing mills).
4. Permitted if within enclosed buildings and as an accessory use to retail sales.
5. Permitted uses within SIC code are subject to provisions identified below:
   a. SIC codes 2711, 2721, 2741, 2761, 2771 and 2796 require administrative approval and are limited to office activities only.
   b. SIC codes 2731, 2732, 2752, 2754, 2759, 2782, 2789 and 2791 are not permitted uses. Other SIC codes under the 27 general category, if not specifically identified in 5a above, are not permitted uses.
6. Permitted uses within SIC code are subject to provisions identified below:
   a. SIC code 7819 requires administrative approval and is limited to office activities only.
   b. SIC codes 7812, 7822, 7829, 7832, 7833 and 7841 are not permitted uses. Other SIC codes under the 78 general category, if not specifically identified in 6a above, are not permitted uses.

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Recreational Marijuana – Exhibit A
Page 7 of 14
### 16.30.090 Table 16.30.090 – Resource land uses.

<table>
<thead>
<tr>
<th>P = Permitted</th>
<th>C = Conditional</th>
<th>A = Administrative permit required</th>
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</thead>
<tbody>
<tr>
<td>Greenbelt</td>
<td>Residential – Mobile Home Park</td>
<td>Residential – 4.5 Units/Acre</td>
</tr>
<tr>
<td>Gb</td>
<td>R4.5</td>
<td>R8</td>
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<tr>
<td></td>
<td>R12</td>
<td>R20</td>
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<tr>
<td>Agriculture</td>
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<tr>
<td>01 Growing and harvesting crops</td>
<td>P6</td>
<td>C</td>
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<tr>
<td>181 Greenhouses and nurseries</td>
<td>C</td>
<td>C5</td>
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<tr>
<td>* Marijuana Production</td>
<td></td>
<td></td>
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<tr>
<td>02 Raising livestock and small animals</td>
<td>P7</td>
<td>C</td>
</tr>
<tr>
<td>Forestry</td>
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<tr>
<td>08 Growing and harvesting forest products</td>
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<tr>
<td>* Forest research</td>
<td>P</td>
<td>P2</td>
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<td>Fish and Wildlife Management</td>
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<td>921 Hatchery/fish preserve</td>
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<tr>
<td>273 Aquaculture</td>
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<td>* Wildlife shelters</td>
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<td>C3</td>
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<tr>
<td>Mineral</td>
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<tr>
<td>10-13 Mineral extraction</td>
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<tr>
<td>14 Mining and quarrying</td>
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<td>C</td>
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<tr>
<td>32 Processing of minerals</td>
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<td>C4</td>
</tr>
<tr>
<td>2951 Asphalt paving mixtures and blocks</td>
<td>C</td>
<td>P</td>
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<tr>
<td>Resource Accessory Uses</td>
<td></td>
<td></td>
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<tr>
<td>* Resource accessory uses</td>
<td>C</td>
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</tbody>
</table>

Note: All applicable requirements of this title, or other applicable state or federal requirements, shall govern a use located within the Port Orchard incorporated area in addition to those described in the notes following.

1. May be further subject to the provisions of the shoreline management program.
2. Only forest research conducted within an enclosed building.
3. Only within an approved enclosed or contained facility subject to appropriate county and state requirements.
4. Only artisan type activities, such as pottery or glass blowing, which are a secondary or accessory use to a retail activity.
5. As a secondary or accessory use to a residential activity without retail sales, where larger than 200 square feet.

Recreational Marijuana – Exhibit A
Page 8 of 14
6. May be further subject to the provisions of EPA and DOE in regard to the use of fertilizers, pesticides, and other chemicals.
7. May be further subject to the provisions of EPA and DOE in regard to the buffering of streams, wetlands, and other freshwater corridors.

**16.30.100 Table 16.30.100 – Retail land uses.**

<table>
<thead>
<tr>
<th>Retail Land Uses</th>
<th>Gb</th>
<th>RMH</th>
<th>R4.5</th>
<th>R8</th>
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<th>R20</th>
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<tr>
<td>5271 Mobile home sales</td>
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<td>* Building, hardware and garden materials</td>
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<td>* Forest products sales</td>
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<tr>
<td>* Department and variety stores</td>
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<td>* Agricultural crop sales</td>
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<td>* Motor vehicle dealers</td>
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<tr>
<td>56 Apparel and accessory stores</td>
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<td>* Furniture and home furnishing stores</td>
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<td>58 Eating and drinking places</td>
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<td>* Adult entertainment facilities</td>
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<td>* Drug stores</td>
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<td>592 Liquor stores</td>
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<td>* Marijuana retailer</td>
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<td>593 Used goods: antiques/secondhand</td>
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Recreational Marijuana – Exhibit A
Page 9 of 14
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<th>Code</th>
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<tr>
<td>594</td>
<td>Miscellaneous shopping goods</td>
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<td>*</td>
<td>Book, stationery, video and art supply</td>
<td>P6</td>
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<td>*</td>
<td>Monuments, tombstones and gravestones</td>
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<td></td>
<td>Bulk retail</td>
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<td>Auction houses</td>
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<td>598</td>
<td>Fuel dealers</td>
<td>P7</td>
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<td>*</td>
<td>Pet shop</td>
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<td>6512</td>
<td>Banks and financial services</td>
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<td>P2,8</td>
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<td>2911</td>
<td>Petroleum refining</td>
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<td>C</td>
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</tbody>
</table>

Note: All applicable requirements of this title, or other applicable state or federal requirements, shall govern a use located within the Fort Orchard incorporated area in addition to those described in the notes following.

1. Only hardware and garden materials shall be permitted.
2. Limited to 25 percent of gross floor area up to 4,000 square feet.
3. a. Limited to products grown on-site; and
   b. Covered sales area shall not exceed 1,000 square feet.
4. Only the sale of new or reconditioned automobile supplies is permitted.
5. Excluding SIC industry number 5813 – Drinking places.
6. Adult entertainment facilities shall be prohibited within 600 feet of any residential zones, schools, licensed daycare centers, public parks, community centers, public libraries, or churches that conduct religious or educational classes for minors.
7. Limited to office use.
8. Drive-through not permitted.
Chapter 16.39
RECREATIONAL MARIJUANA

Sections:
16.39.010 Findings and purpose.
16.39.030 Location criteria.
16.39.040 Marijuana uses allowed in identified zones.
16.39.050 Licenses required.
16.39.060 Signs and advertising.
16.39.080 Visibility of activities; control of emissions.
16.39.090 No city liability; indemnification.
16.39.100 Adoption by reference.

16.39.010 Findings, purpose, and intent.

(1) In November 2012, Washington voters passed Initiative 502, which established precedent for the production, processing and retail sale of marijuana for recreational purposes. Pursuant to chapter 69.50 RCW, the State has adopted rules establishing a state-wide regulatory and licensing program for marijuana uses (chapter 315-55 WAC). It is therefore desirable for the City to establish local regulations to address such uses.

(2) The purpose of these regulations is to establish where recreational marijuana producers, processors and retail outlets may locate in the City, and to describe the restrictions upon such uses. In addition to compliance with this Ordinance, every recreational marijuana processor, producer and retail outlet shall obtain a City business license under chapter 5.12 of the Port Orchard Municipal Code.

(3) These regulations are intended to ensure that state-licensed marijuana uses are located and developed in a manner that is consistent with the desired character and standards of the city of Port Orchard, minimizes potential incompatibilities and impacts, and protects the public health, safety, and general welfare of the citizens of Port Orchard.

(4) No part of Ordinance is intended to or shall be deemed to conflict with federal law, including but not limited to, the Controlled Substances Act, 21 U.S.C. Section 800 et seq., the Uniform Controlled Substances Act (chapter 69.50 RCW) nor to otherwise permit any activity that is prohibited under either Act, or any other local, state or federal law, statute, rule or regulation. Nothing in this Ordinance shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of medical cannabis or recreational marijuana in any manner not authorized by chapter 69.51A RCW or chapter 69.50 RCW. Nothing in this Ordinance shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or that creates a nuisance, as defined herein. It is the intention of the City Council that this Ordinance be interpreted to be compatible with federal and state enactments and in furtherance of the public purposes that those enactments encompass.

(1) The provisions of this chapter shall apply city-wide. The specific development standards provided herein shall be in addition to the zoning and development standards generally applicable to the proposed use and the relevant zoning district.

(2) No person or use that purports to be a marijuana producer, processor, or retailer, as defined and regulated herein and in chapter 314-55 WAC, that was engaged in that activity prior to the enactment of this Ordinance shall be deemed to have been a legally established use or entitled to claim legal non-conforming status.

16.39.030 Location criteria.

(1) As provided in RCW 69.50.331 and WAC 314-55-050, no recreational marijuana producer, processor or retail outlet may locate within one thousand (1,000) feet of any of the following:
   (a) Elementary or secondary school;
   (b) Playground;
   (c) Recreation center or facility;
   (d) Child care center;
   (e) Public park;
   (f) Public transit center;
   (g) Library; or
   (h) Any game arcade (where admission is not restricted to persons age twenty-one or older.

(2) The methodology for measuring the buffers described above shall be as provided in WAC 314-55-050.

(3) 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 outlined above.

(4) No recreational marijuana producer, processor or retail outlet may locate within any residentially zoned district or within any residential unit in the City.

16.39.040 Marijuana uses allowed in identified zones.

(1) Marijuana uses (marijuana producer, marijuana processor, and marijuana retailer) shall only be allowed in those zoning districts where it is specifically identified as a permitted use. See land use tables set forth in POMC 16.30.050 (processing), 16.30.090 (production), and 16.30.100 (retail).

(2) In accordance with WAC 314-55-147, marijuana retail uses shall not be open to the public between the hours of 12 a.m. and 8 a.m.

(3) An existing nonconforming use located within a zoning district that would otherwise not permit marijuana uses, such as an old convenience store in a residential zone, shall not be allowed to convert to a marijuana use.
16.39.050 Licenses required.

(1) A valid, current license is required from the Washington State Liquor Control Board for operation of any recreational marijuana, producer, processor or retail outlet. A copy of this license shall be submitted to the City as part of the complete application for a city business license.

(2) No recreational marijuana producer, processor, or retail outlet may operate or open for business prior to receipt of a city business license. The process for obtaining a city business license is set forth in chapter 5.12 POMC.

16.39.060 Signs and advertising.

(1) All signage and advertising for a recreational marijuana producer, processor, or retail outlet shall comply with the applicable provisions of this Code, the Sign Code, Zoning Code, and WAC 314-55-155 (and all applicable rules and regulations promulgated thereunder).

(2) The City may enforce this section pursuant to chapters 16.01 and 16.65 POMC. For violations of WAC 314-55-155 and 314-55-525, the City may report the violation to the State Liquor Control Board.


(1) All licensees and any agent, manager or employee thereof shall immediately report to the City Police Department any disorderly act, conduct or disturbance and any unlawful activity committed in or on the licensed and permitted premises, including, but not limited to, any unlawful resale of marijuana, and shall also immediately report any such activity in the immediate vicinity of the business.

(2) Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises a sign with a minimum height of fourteen (14) inches and a minimum width of eleven (11) inches with each letter to be a minimum of one-half (1/2) inch in height, which shall read as follows:

WARNING:

The City of Port Orchard Police Department must be notified of all disorderly acts, conduct or disturbances and all unlawful activities which occur on or within the premises of this licensed establishment.

(3) It shall not be a defense to a prosecution of a code enforcement action under this section that the licensee was not personally present on the premises at the time such unlawful activity, disorderly act, conduct or disturbance was committed; however, no agent or employee of the licensee shall be personally responsible for failing to report any disorderly act, conduct or disturbance and any unlawful activity hereunder if such agent, servant or employee was absent from the premises at the time such activity was committed.
16.39.080 Visibility of activities; control of emissions.
   (1) All activities of the recreational marijuana business, including, but not limited to, cultivating, growing, processing, displaying, manufacturing, selling and storage, shall be conducted out of the public view.

   (2) No recreational marijuana or paraphernalia shall be displayed or kept in a business so as to be visible from outside the licensed premises.

   (3) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the recreational marijuana business must be in effect at all times. In the event that any odors, dust, fluids or other substances exit a recreational marijuana business, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for the immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

16.39.090 No city liability; indemnification.
   (1) By accepting a city business license issued pursuant to this chapter and chapter 5.12 POMC, the licensee waives and releases the City, its officers, elected officials, employees, volunteers and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers for a violation of federal, state or local laws and regulations.

   (2) By accepting a city business license issued pursuant to this chapter and chapter 5.12 POMC, all licensees, jointly and severally, if more than one, agree to indemnify, defend and hold harmless the City, its officers, elected officials, employees, volunteers and agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the recreational marijuana business that is the subject of the license.

16.39.100 Adoption by reference.
   The city hereby adopts chapter 314-55 WAC by reference, as well as RCW 69.50.101. A copy of these rules and the statute adopted by reference is on file in the office of the city clerk for use and examination by the public. A copy of these rules and statutes has also been on file while this ordinance has been under consideration by the council and after adoption.
NOTICE OF CITY OF PORT ORCHARD
ORDINANCE

The following is a summary of an Ordinance approved by the Port Orchard City Council at their regular Council meeting held April 22, 2014.

ORDINANCE NO. 003-14


Copies of Ordinance No. 003-14 are available for review at the office of the City Clerk of the City of Port Orchard. Upon written request a statement of the full text of the Ordinance will be mailed to any interested person without charge. Thirty days after publication, copies of Ordinance No. 003-14 will be provided at a nominal charge.

City of Port Orchard

Brandy Rinearson
City Clerk

Publish: Port Orchard Independent
May 2, 2014