

**CITY OF SPOKANE VALLEY
SPOKANE COUNTY, WASHINGTON
ORDINANCE NO. 19-011**

**AN ORDINANCE OF THE CITY OF SPOKANE VALLEY, SPOKANE COUNTY,
WASHINGTON, ADOPTING AMENDMENTS TO SPOKANE VALLEY MUNICIPAL
CODE APPENDIX A, SPOKANE VALLEY MUNICIPAL CODE SECTION 19.60.050, AND
CHAPTER 19.85 OF THE SPOKANE VALLEY MUNICIPAL CODE TO UPDATE
DEFINITIONS AND ALLOW LICENSED MARIJUANA TRANSPORTER USES, AND
OTHER MATTERS RELATING THERETO.**

WHEREAS, since 1970, federal law has prohibited the manufacture and possession of marijuana as a Schedule I drug, based on the federal government’s categorization of marijuana as having a “high potential for abuse, lack of any accepted medical use, and absence of any accepted safety for use in medically supervised treatment.” *Gonzales v. Raich*, 545 U.S. 1, 14 (2005), Controlled Substance Act (CSA), 84 Stat. 1242, 21 U.S.C. 801 *et seq*; and

WHEREAS, on November 6, 2012, voters of the State of Washington approved Initiative Measure No. 502 (I-502), now codified in various chapters of the RCW, including chapters 69.50, 46.04, 46.20, 46.21, and 46.61 RCW, which provisions, (1) decriminalized possession and use of certain amounts of marijuana and marijuana paraphernalia; (2) amended state laws pertaining to driving under the influence of intoxicants to include driving under the influence of marijuana; and (3) established a regulatory system licensing producers, processors, and retailers of recreational marijuana for adults 21 years of age and older, and provide for the Washington State Liquor and Cannabis Board (“WSLCB”) to adopt rules governing licensed marijuana uses; and

WHEREAS, the City has adopted chapter 19.85 of the Spokane Valley Municipal Code (“SVMC”), which provides comprehensive regulations governing licensed marijuana uses within the City, but which prohibits marijuana transporter uses; and

WHEREAS, the State has adopted RCW 69.50.382 and .385, and the WSLCB has adopted WAC 314-55-310 to authorize and regulate licensed marijuana transporters to transport marijuana and marijuana products between licensed marijuana producers, processors, retailers, and researchers; and

WHEREAS, the City Council desires to allow licensed marijuana transporter uses as provided in the proposed amendments; and

WHEREAS, on April 17, 2019, the Washington State Department of Commerce was notified pursuant to RCW 36.70A.106, providing a 60-day notice of intent to adopt amendments to Spokane Valley development regulations; and

WHEREAS, on May 3, 2019, and May 10, 2019, notice of the Planning Commission public hearing was published in the Valley News Herald; and

WHEREAS, on May 23, 2019, the Planning Commission held a public hearing, received evidence, information, public testimony, and a staff report followed by deliberations, and provided a recommendation to approve the proposed amendments; and

WHEREAS, on June 24, 2019, the City Council reviewed the proposed amendments; and

WHEREAS, on July 9, 2019, the City Council considered a first ordinance reading to adopt the proposed amendments; and

WHEREAS, on July 23, 2019, City Council considered a second ordinance reading to adopt the proposed amendments; and

WHEREAS, the amendments set forth below are consistent with the goals and policies of the City's Comprehensive Plan; and

WHEREAS, the amendments below bear a substantial relation to the public health, safety, and welfare and protection of the environment.

NOW, THEREFORE, the City Council of the City of Spokane Valley ordains as follows:

Section 1. Findings and Conclusions. The City Council acknowledges that the Planning Commission conducted appropriate investigation and study, held a public hearing on the proposed amendments and recommends approval of the amendments. The City Council has read and considered the Planning Commission's findings. The City Council hereby makes and adopts the following findings and conclusions:

A. Growth Management Act Policies – The Washington State Growth Management Act (GMA) provides that each city shall adopt a comprehensive land use plan and development regulations that are consistent with and implement the comprehensive plan.

B. Compliance with Spokane Valley Municipal Code (SVMC) 17.80.150(F):

1. The proposed amendments are consistent with the following applicable provisions of the Comprehensive Plan:

ED-G1: Support economic opportunities and employment growth for Spokane Valley.

ED-G6: Maintain a positive business climate that strives for flexibility, predictability, and stability.

ED-P2: Identify and encourage business and employment growth in new and innovative industries and occupations.

LU-G1: Maintain and enhance the character and quality of life in Spokane Valley.

LU-P5: Ensure compatibility between adjacent residential and commercial or industrial uses.

LU-P9: Provide supportive regulations for new and innovative development types on commercial, industrial, and mixed-use land.

LU-P10: Ensure that freight-intensive operations have convenient access to designated truck routes and intermodal terminals.

2. The proposed amendments bear a substantial relation to the public health, safety, welfare, and protection of the environment as follows:

The proposed amendments will allow compliance with state law and allow state-licensed marijuana transport businesses to locate within Spokane Valley while separating such uses from identified sensitive uses and the City's existing and future residential uses. Further, the amendment will allow transportation businesses near transportation infrastructure.

Section 2. Amendment. Appendix A of the SVMC is hereby amended with the following additions and amendments, to be added alphabetically:

**APPENDIX A
DEFINITIONS**

A. General Provisions.

1. For the purpose of this Code, certain words and terms are herein defined. The word “shall” is always mandatory. The word “may” is permissive, subject to the judgment of the person administering the Code.
2. Words not defined herein shall be construed as defined in Webster’s New Collegiate Dictionary.
3. The present tense includes the future, and the future the present.
4. The singular number includes the plural and the plural the singular.
5. Use of male designations shall also include female.

B. Definitions.

Manufacturing, petroleum and coal products: The manufacture of asphalt paving, roofing and coating and petroleum refining. See “Industrial, heavy use category.”

Marijuana club or lounge: A club, association, or other business, for profit or otherwise, that conducts or maintains a premises for the primary or incidental purpose of providing a location where members or other persons may keep or consume marijuana on the premises, whether licensed by the Washington State Liquor and Cannabis Board or not, or such other similar use pursuant to RCW 69.50.465, as now adopted or hereafter amended.

Marijuana cooperative: A marijuana cooperative formed pursuant to chapter 69.51A RCW, as now adopted or hereafter amended. A marijuana cooperative is comprised of up to four qualifying patients or designated providers and formed for the purposes of sharing responsibility for acquiring and supplying the resources, and producing and processing marijuana for the medical use of the members of the marijuana cooperative.

Marijuana processing: Processing marijuana into usable marijuana, marijuana-infused products, and marijuana concentrates; packaging and labeling usable marijuana, marijuana-infused products, and marijuana concentrates for sale in retail outlets; and sale of usable marijuana, marijuana-infused products, and marijuana concentrates at wholesale by a marijuana processor licensed by the State Liquor Control and Cannabis Board and pursuant to Chapter 69.50 RCW and rules promulgated thereunder, as now adopted or hereafter amended.

Marijuana production: Production and sale of marijuana at wholesale by a marijuana producer licensed by the State Liquor Control and Cannabis Board and pursuant to Chapter 69.50 RCW and rules promulgated thereunder, as now adopted or hereafter amended.

Marijuana sales: Selling usable marijuana, marijuana-infused products, and marijuana concentrates in a retail outlet by a marijuana retailer licensed by the State Liquor Control and Cannabis Board, along with any applicable other use allowed as part of the marijuana sales pursuant to an endorsement associated with marijuana retail including, but not limited to, marijuana sales with a medical endorsement, operation of a marijuana club or lounge pursuant to an endorsement, or delivery of marijuana that may require an endorsement, all as provided pursuant to Chapter 69.50 RCW and rules promulgated thereunder, as now adopted or hereafter amended.

Marijuana sales with medical endorsement: Marijuana sales and medical marijuana sales by a marijuana retailer licensed by the Washington State Liquor and Cannabis Board that has been issued a medical marijuana endorsement pursuant to Chapter 69.50 RCW and rules promulgated thereunder, as now adopted or hereafter amended.

Marijuana transporter: A common carrier engaged in marijuana-related transportation or delivery services licensed for such marijuana-related transportation or delivery, all as provided pursuant to chapter 69.50 RCW and rules promulgated thereunder, as now adopted or hereafter amended. Marijuana transporters shall only include common carriers providing marijuana-related transportation services between licensed marijuana producers, marijuana processors, marijuana researchers, and marijuana retailers and shall not include any residential delivery or delivery to end-users.

Marijuana uses, category: Marijuana uses conducted in compliance with state law, including but not limited to Chapters 69.50 and 69.51A RCW and rules promulgated thereunder, as now adopted or hereafter amended.

Market, outdoor: A temporary or seasonal location where produce and agricultural products including, but not limited to, pumpkins, Christmas trees and firewood, as well as crafts and other items, are offered for sale to the public. See “Retail sales and services, use category.”

Section 3. Amendment. SVMC 19.60.050 is hereby amended with the following additions:

19.60.050 Permitted uses matrix.

	Residential				Mixed Use		Commercial		Industrial		Parks and Open Space
	R-1	R-2	R-3	MFR	MU	CMU	NC	RC	IMU	I	POS

Lodging											
Bed and breakfast	P	P	P	P		P					
Hotel/motel					P	P		P	P	S	
Recreational vehicle park/campground								S			
Marijuana Uses											
Marijuana club or lounge											
Marijuana cooperative											
Marijuana processing								S		S	
Marijuana production								S		S	
Marijuana sales					S	S		S			
Marijuana transporter								S	S	S	
Medical					S	P	P		P	P	P

Section 4. Amendment. Chapter 19.85 SVMC is hereby amended as follows:

**Chapter 19.85
MARIJUANA USES**

19.85.010 Marijuana production standards.

A. Marijuana production shall be located or maintained at least 1,000 feet from the nearest property line, measured from the nearest property line of the marijuana production facility to the nearest property line of any one or more of the following uses:

1. Vacant or undeveloped parcels owned by public school districts as established in RCW Title 28A;
2. Vacant or undeveloped parcels owned by public library districts as established in Chapter 27.12 RCW;
3. Vacant or undeveloped parcels leased or owned by the City; provided the following shall be excluded from consideration under SVMC 19.85.010:
 - a. Any stormwater facility or right-of-way parcels owned or leased by the City and designated or identified as a stormwater facility or right-of-way in any document, plan, or program adopted by the council; and
 - b. The Appleway Trail; or
4. a. Any facility or building designated or identified in any document, plan, or program adopted by the Council as “Spokane Valley City Hall” or other similar term that identifies such facilities or buildings as the City’s primary administrative and legislative location; or

b. CenterPlace.

B. Marijuana production in the RC zone shall only be permitted indoors.

19.85.020 Marijuana processing standards.

A. Marijuana processing shall be located or maintained at least 1,000 feet from the nearest property line, measured from the nearest property line of the marijuana processing facility to the nearest property line of any one or more of the following uses:

1. Vacant or undeveloped parcels owned by public school districts as established in RCW Title 28A;
2. Vacant or undeveloped parcels owned by public library districts as established in Chapter 27.12 RCW;
3. Vacant or undeveloped parcels leased or owned by the City; provided the following shall be excluded from consideration under SVMC 19.85.020:
 - a. Any stormwater facility or right-of-way parcels owned or leased by the City and designated or identified as a stormwater facility or right-of-way in any document, plan, or program adopted by the City; and
 - b. The Appleway Trail; or
4. a. Any facility or building designated or identified in any document, plan, or program adopted by the City as “Spokane Valley City Hall” or other similar term that identifies such facilities or buildings as the City’s primary administrative and legislative location; or

b. CenterPlace.

B. Marijuana processing in the RC zone shall be limited to packaging and labeling of usable marijuana.

19.85.030 Marijuana retail sales standards.

A. New marijuana sales shall not be permitted within any zoning districts.

B. Marijuana sales uses in existence and in continuous and lawful operation prior to July 27, 2016, shall not be deemed nonconforming and shall be permitted as a legal use subject to the following: marijuana sales shall be

located or maintained at least 1,000 feet from the nearest property line, measured from the nearest property line of the marijuana sales facility to the nearest property line of any one or more of the following uses:

1. Centennial Trail;
2. Appleway Trail;
3. Vacant or undeveloped parcels owned by public school districts as established in RCW Title 28A;
4. Vacant or undeveloped parcels owned by public library districts as established in Chapter 27.12 RCW;
5. Vacant or undeveloped parcels leased or owned by the City; provided any stormwater facility or right-of-way parcels owned or leased by the City and designated or identified as a stormwater facility or right-of-way in any document, plan, or program adopted by the council shall be excluded from consideration under SVMC 19.85.030; or
6. a. Any facility or building designated or identified in any document, plan, or program adopted by the council as "Spokane Valley City Hall" or other similar term that identifies such facilities or buildings as the City's primary administrative and legislative location; or
b. CenterPlace.

19.85.040 Marijuana transporter standards.

A. Marijuana transporter uses shall be located or maintained at least 1,000 feet from the nearest property line, measured from the nearest property line of the marijuana transporter facility to the nearest property line of any one or more of the following uses:

1. Vacant or undeveloped parcels owned by public school districts as established in RCW Title 28A;
2. Vacant or undeveloped parcels owned by public library districts as established in chapter 27.12 RCW;
3. Vacant or undeveloped parcels leased or owned by the City; provided the following shall be excluded from consideration under SVMC 19.85.040:
 - a. Any stormwater facility or right-of-way parcels owned or leased by the City and designated or identified as a stormwater facility or right-of-way in any document, plan, or program adopted by the City; and
 - b. The Appleway Trail; or
4. a. Any facility or building designated or identified in any document, plan, or program adopted by the City as "Spokane Valley City Hall" or other similar term that identifies such facilities or buildings as the City's primary administrative and legislative location; or
b. CenterPlace.

B. Marijuana transporter uses in the RC zone shall include a lockable enclosure for any vehicles used for marijuana-related transport. Such enclosure shall be subject to applicable setback, transitional, and screening requirements.

19.85.050 Other licensed or registered marijuana uses prohibited.

Marijuana production, marijuana processing, existing marijuana sales, and marijuana transporters shall be permitted pursuant to SVMC 19.85.010, 19.85.020, 19.85.030, and 19.85.040. All other commercial and noncommercial licensed or registered marijuana uses are prohibited within all zoning districts of the City. This prohibition includes, but is not limited to, marijuana clubs or lounges and marijuana cooperatives. This prohibition does not apply to home growing or processing of marijuana by qualified patients or designated providers in residential zoning districts as set forth in SVMC 19.85.060 and in compliance with state law.

19.85.060 Marijuana production and processing in residential zones.

Washington state law authorizes qualified patients and designated providers to produce marijuana and to process marijuana in dwellings, residences, domiciles, and similar housing units under limited circumstances and with limited processing methods. Subject to applicable federal, state, and local laws, any owner, lessor, or leasing agent may request or require disclosure of a renter or lessee’s desire to produce or process marijuana within a rented or leased dwelling unit. In addition to compliance with any applicable state or federal laws and regulations, lawful production or processing of marijuana by any person in a dwelling, residence, domicile, or other similar housing unit shall be subject to all locally applicable land use, development, zoning, and building regulation requirements including, but not limited to, all applicable requirements set forth in SVMC Titles 17 through 24 as the same are now adopted or hereafter amended, and the following regulations:

A. Any home production or processing of marijuana by any person pursuant to state law shall not be permitted outside of the dwelling or accessory structure;

B. Any home production or processing of marijuana by any person or allowed by state law in a dwelling or accessory structure shall be enclosed, blocked, or sight-screened from the public right-of-way and from adjacent properties so that no portion may be readily seen by normal unaided vision or readily smelled from such locations. Accessory structures shall be permanent structures enclosed by a roof and walls on all sides and connected to a permanent foundation. For purposes of SVMC 19.85.060, accessory structures shall not include cargo containers, recreational vehicles, or other similar types of structures. Accessory structures shall be completely opaque in addition to necessary site-screening;

C. Home processing of marijuana shall not involve any combustible method and shall comply with all federal, state, and local laws and rules, including all standards adopted by the Washington State Liquor and Cannabis Board; and

D. Production or processing of marijuana by any person pursuant to state law in a dwelling or accessory structure shall only be allowed in the R-1, R-2, and R-3 zones.

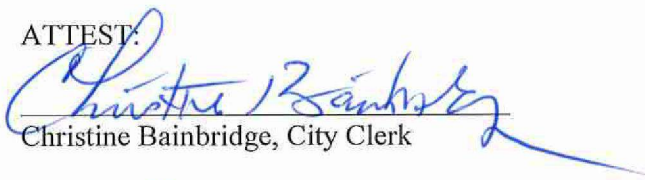
Section 5. Other sections unchanged. All other provisions of Appendix A and Title 19 SVMC not specifically referenced hereto shall remain in full force and effect.

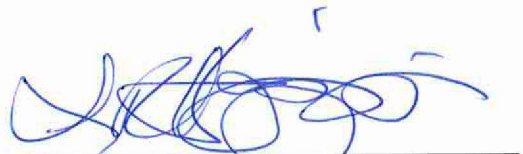
Section 6. Severability. If any section, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

Section 7. Effective Date. This Ordinance shall be in full force and effect five days after publication of this Ordinance or summary thereof in the official newspaper of the City of Spokane Valley as provided by law.

Passed by the City Council this 23rd day of July, 2019.

ATTEST:


Christine Bainbridge, City Clerk


L.R. Higgins, Mayor

Approved as to Form:


Office of the City Attorney

Date of Publication: 8-2-2019
Effective Date: 8-7-2019