

**MARIJUANA REGULATIONS RECCOMENDATION  
STAFF REPORT SUMMARY**

An Amendment to North Bend Municipal Code creating a new section *18.60- Marijuana Regulations* and amending sections 18.10.030

**To:** Planning Commission  
**Date:** April 3, 2014  
**From:** Megan O'Neal, Associate Planner

**DESCRIPTION/SUMMARY OF PROPOSED NORTH BEND MUNICIPAL CODE AMENDMENTS:**

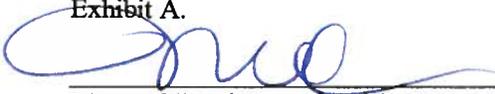
The purpose of this ordinance is to establish regulations and zoning associated with marijuana producers, processors and retail outlets that may locate in the City, and to describe the restrictions and performance standards upon such uses. A new section titled 18.60 *Marijuana Regulations* will be added to the NBMC Chapter 8 *Zoning*. NBMC 18.10.030 *Permitted and Conditional Uses* will also be amended to reference 18.60 *Marijuana Regulations*. Regulations of marijuana addressing both recreational and medical marijuana, recommended by planning staff along with input from the general public and planning commission is included in attached Exhibit A.

**FINDINGS:**

- 1) A State Environmental Policy Act Determination of Nonsignificance was issued on February 21, 2014 and published in the Valley Record on February 26, 2014. The Environmental Checklist and SEPA Determination are available upon request.
- 2) A public hearing was scheduled for and held at the March 13, 2014 Planning Commission Meeting. A notice of Public Hearing was published in the Valley Record on February 26, 2014. Comments were received and considered by the Planning Commission.
- 3) Next steps: Review draft ordinance for edits and provide a recommendation to Council Committee.

**CONCLUSION AND STAFF RECOMMENDATION:**

Based on the amendments description and findings above, Staff recommends the amendments to North Bend Municipal Code Chapter 18.60, *Marijuana Regulations*, as provided in the attached Exhibit A.

  
\_\_\_\_\_  
Megan O'Neal, Associate Planner

  
\_\_\_\_\_  
Date

**PLANNING COMMISSION RECOMMENDATION**

Based on the findings above, the North Bend Planning Commission recommends that the City Council **APPROVE/ DENY** the proposed amendments to North Bend Municipal Code Chapter 18.60, *Marijuana Regulations*, as provided in the attached Exhibit A.

  
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Planning Commission Chair

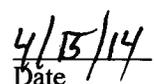
  
\_\_\_\_\_  
Date

EXHIBIT LIST: Exhibit A – NBMC 18.60 Amended Code Language

ORDINANCE NO. 1529  
EXHIBIT A

THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO

DO hereby certify that the following is a true and correct copy of the Ordinance as the same appears in the minutes of the Board of Supervisors of the County of San Diego, California, at its regular meeting held on the 15th day of August, 1990.

IT IS THE POLICY OF THE COUNTY OF SAN DIEGO TO ENCOURAGE AND SUPPORT THE DEVELOPMENT OF A HIGH QUALITY ENVIRONMENT FOR THE COUNTY OF SAN DIEGO. THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO HAS ADOPTED THE FOLLOWING POLICY STATEMENT:

1. The Board of Supervisors of the County of San Diego shall encourage and support the development of a high quality environment for the County of San Diego.

2. The Board of Supervisors of the County of San Diego shall encourage and support the development of a high quality environment for the County of San Diego.

3. The Board of Supervisors of the County of San Diego shall encourage and support the development of a high quality environment for the County of San Diego.

4. The Board of Supervisors of the County of San Diego shall encourage and support the development of a high quality environment for the County of San Diego.

*[Signature]*  
County Clerk

*[Signature]*  
County Clerk

**Chapter 18.60**  
**MARIJUANA REGULATION**

- 18.60.010 Findings and Purpose.
- 18.60.020 Definitions.
- 18.60.030 Location Criteria for Recreational Marijuana Uses.
- 18.60.035 Performance Standards.
- 18.60.040 Business License Required.
- 18.60.050 Signs and Advertising.
- 18.60.060 Security Requirements.
- 18.60.070 No City Liability – Indemnification.

**18.60.010 Findings and Purpose.**

A. The purpose of this Chapter 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 Chapter, every recreational marijuana processor, producer and retail outlet shall obtain a City business license under Title 5 of the North Bend Municipal Code.

B. No part of this 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. This Chapters intention is to be compatible with federal and state enactments and in furtherance of the public purposes that those enactments encompass.

**18.60.020 Definitions**

The definitions in this section apply throughout this Chapter, and the City also adopts the definitions in WAC 314-55-010 and RCW 69.50.101.

- A. "Applicant" or "marijuana license applicant" means any person or business entity who is considered by the board as a true party of interest in a marijuana license, as outlined in WAC 314-55-035.
- B. "Batch" means a quantity of marijuana-infused product containing material from one or more lots of marijuana.
- C. "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs and advertising.
- D. "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 licensed by the Washington state department of early learning under chapter 170-295 WAC.

- E. "Early Learning and Development Program" means any (a) State-licensed or State-regulated program or provider, regardless of setting or funding source, that provides early care and education for children from birth to kindergarten entry, including, but not limited to, programs funded by the Federal government, State or local educational agencies (including individuals with Disabilities Education Act- funded programs); (c) Early Head Start and Head Start programs; and (d) any non-relative childcare providers not otherwise regulated by the State and regularly cares for two or more unrelated children for a fee in a provider setting. (e) State affiliates of the National Association for the Education of Young Children.
- F. "Elementary school" means a school for early education that provides the first four to eight years of basic education and recognized by the Washington state superintendent of public instruction.
- G. "Financier" means any person or entity, other than a banking institution, that has made or will make an investment in the licensed business. A financier can be a person or entity that provides money as a gift, loans money to the applicant/business and expects to be paid back the amount of the loan with or without interest, or expects any percentage of the profits from the business in exchange for a loan or expertise.
- H. "Game arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.
- I. "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.
- J. "Licensee" or "marijuana licensee" means any person or entity that holds a marijuana license, or any person or entity who is a true party of interest in a marijuana license, as outlined in WAC 314-55-035.
- K. "Lot" means either of the following:
  - a. The flowers from one or more marijuana plants of the same strain. A single lot of lowers cannot weigh more than five pounds; or
  - b. The trim, leaves, or other plant matter from one or more marijuana plants. A single lot of trim, leaves, or other plant matter cannot weigh more than fifteen pounds.
- L. "Marijuana strain" means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.
- M. "Member" means a principal or governing person of a given entity, including but not limited to: LLC member/manager, president, vice-president, secretary, treasurer, CEO, director, stockholder, partner, general partner, limited partner. This includes all spouses of all principas or governing persons named in this definition and referenced in WAC 314-55-035.
- N. "Pesticide" means, but is not limited to:
  - a. Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest;

- b. any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and
- c. any spray adjuvant;

Pesticides include substances commonly referred to as herbicides, fungicides, and insecticides.

- O. "Perimeter" means a property line that encloses an area.
- P. "Plant canopy" means the square footage dedicated to live plant production, such as maintaining mother plants, propagating plants from seed to plant tissue, clones, vegetative or flowering area. Plant canopy does not include areas such as space used for the storage of fertilizers, pesticides, or other products, quarantine, office space, etc.
- Q. "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government.
- R. "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. Public park does not include trails.
- S. "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. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.
- T. "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.
- U. "Residence" means a person's address where he or she physically resides and maintains his or her abode.
- V. "Secondary school" means a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington state superintendent of public instruction.
- W. "Unit" means an individually packaged marijuana-infused solid or liquid product meant to be eaten or swallowed, not to exceed ten servings or one hundred milligrams of active tetrahydrocannabinol (THC), or Delta 9.

#### **18.60.030 Location Criteria for Recreational Marijuana Uses**

A. No recreational marijuana producer, processor or retail outlet may locate within one thousand (1,000) feet of any of the following:

1. Elementary or secondary school;
2. Playground;
3. Recreation center or facility;
4. Child care center;
5. Early Learning and Development Program;
6. Public park;
7. Public transit center;
8. Library; or
9. Any game arcade (where admission is not restricted to persons age twenty-one or older).

The distances described above shall be computed by direct measurement as stated in WAC 314-55-050(10) as follows:

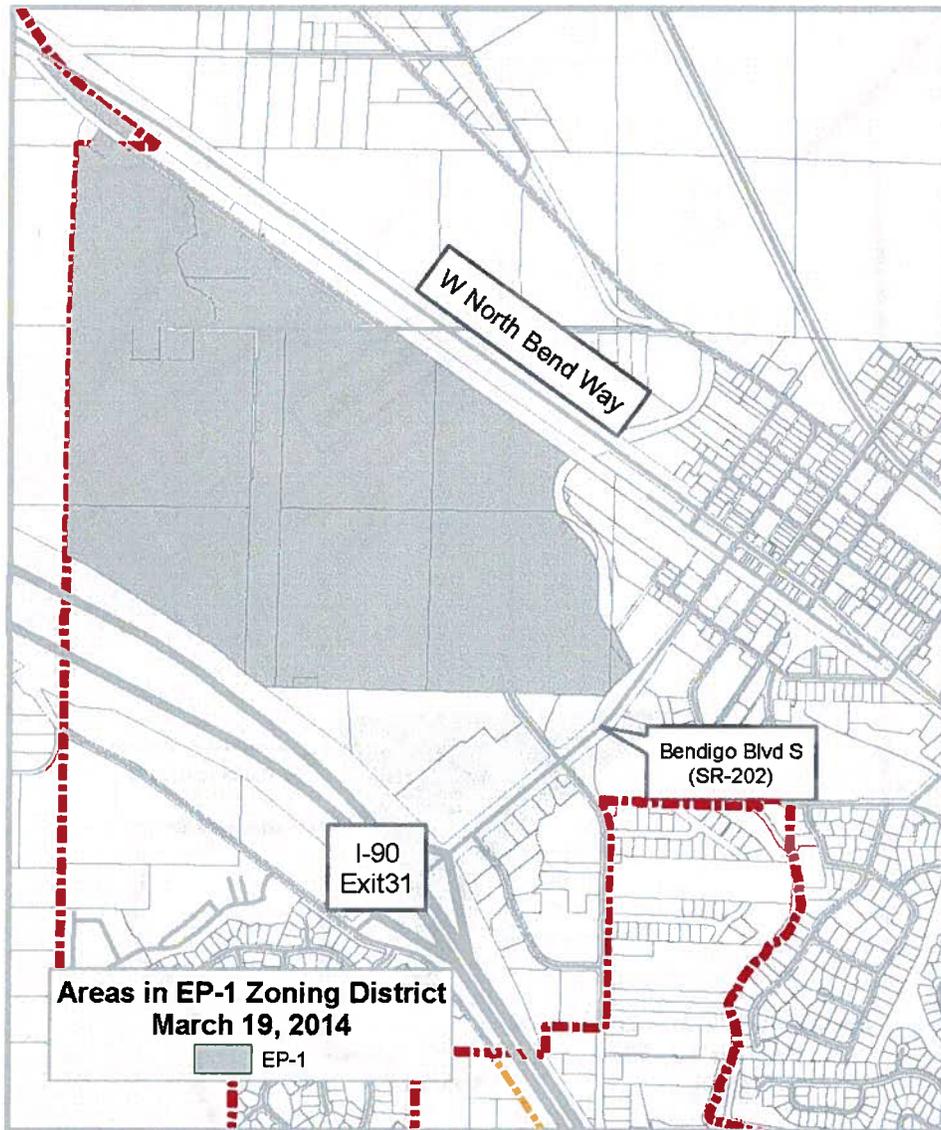
The distance shall be measured as the shortest straight line distance from the property line of the licensed premises to the property line of an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library or arcade where admission is not restricted to those age 21 and older.

**B. No recreational marijuana producer, processor or retail outlet may locate within any residentially zoned district or within any residential dwelling in the City. Furthermore NBMC 18.10.050.153.B prohibits medical marijuana collective gardens or any other use involving legal sales or exchange of marijuana as a home occupation business.**

#### **C. Marijuana Producer Processor Allowed Locations**

The following figure identifies where producing and processing of marijuana are allowed. A supplemental map detailing current buffer zones as described in this sub-section is available from the Department of Community and Economic Development. Figure 1 is subject to change.

**Figure 1 - Marijuana Producer/Processor Allowed Locations**

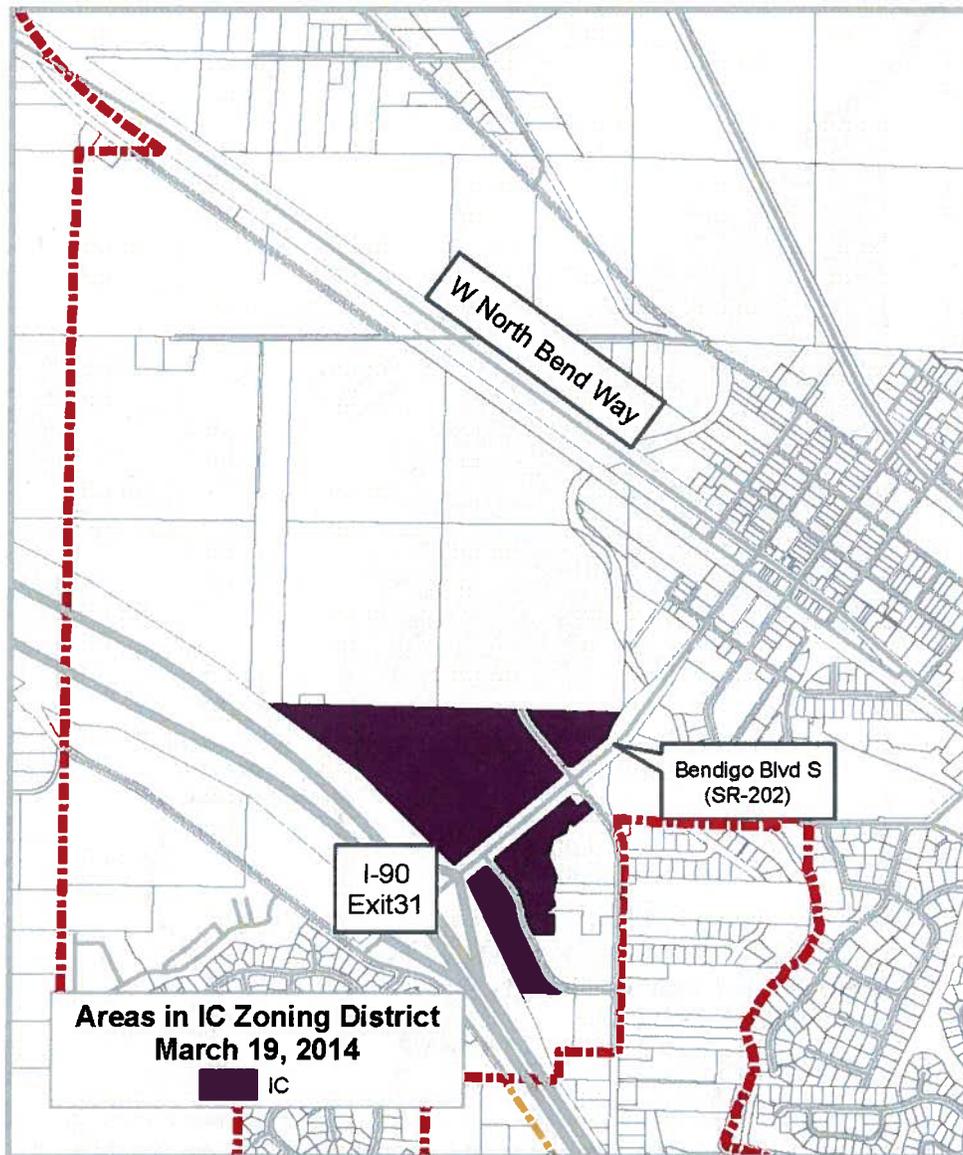


\*Producers and processors may locate in a portion of the Employment Park - 1 Zone located South of W North Bend Way, West of Bendigo Blvd. S, and North of Interstate 90 as depicted in Figure 1. Producers and processors are subject to compliance with 18.60.030 location criteria and all other provisions of this Chapter.

#### D. Marijuana Retail Establishments Allowed Locations

The following figure identifies where marijuana retail establishments are allowed. A supplemental map detailing current buffer zones as described in this sub-section is available from the Department of Community and Economic Development. The Figure 2 is subject to change.

**Figure 2 - Marijuana Retail Establishments Allowed Locations**



\*Retail establishments may locate in a portion of the Interchange Commercial Zone located North of I-90 interchange at exit 31, adjacent to Bendigo Blvd. S and South Fork Ave. SW as depicted in Figure 2. Retail establishments are subject to compliance with 18.60.030 and all other provisions of this Chapter.

### **18.60.035 Performance Standards**

All performance standards of licensed premises shall comply with the requirements of WAC 314-55-075, WAC 314-55-077, and WAC 314-55-079 (and all applicable rules and regulations promulgated thereunder).

<p>Producer</p>	<p>A. A marijuana producer license allows the licensee to produce marijuana for sale at wholesale to marijuana processor licensees and to other marijuana producer licensees. Marijuana production must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors;</p> <p>B. The maximum amount of space for marijuana production is limited to two million square feet state-wide. Applicants must designate on their operating plan the size category of the production premises and the amount of actual square footage in their premises that will be designated as plant canopy. There are three categories as follows:</p> <p style="padding-left: 40px;">Tier 1 – Less than two thousand square feet;  Tier 2 – Two thousand square feet to ten thousand square feet; and  Tier 3 – Ten thousand square feet to thirty thousand square feet. (Prohibited in North Bend pursuant to this chapter);</p> <p>C. Tier 3 – Producer licenses for facilities of ten thousand square feet or more is prohibited;</p> <p>D. Outdoor production shall not be allowed in an open or cleared ground or field; rather outdoor production shall be fully enclosed in a non-rigid greenhouse or other structure.</p> <p>E. Outdoor producers must meet the security requirements described in WAC 314-55-083, which shall be confirmed for compliance by the City prior to issuance of a business licenses.</p>
<p>Processor</p>	<p>A. A marijuana processor license allows the licensee to process, package, and label usable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers. A marijuana processor is allowed to blend tested usable marijuana from multiple lots into a single package for sale to a marijuana retail licensee providing the label requirements for each lot uses in the blend are met and the percentage by weight if each lot is also included on the label.</p> <p>B. A Processor shall meet the requirements as set forth in WAC 314.55.077.</p> <p>C. A Processor building foot print shall not exceed 10,000 square feet in size and all activities of said use shall be conducted indoors.</p>
<p>Retail</p>	<p>A. A marijuana retailer license allows the licensee to sell only usable marijuana, marijuana-infused products, and marijuana paraphernalia at retail in retail outlets to persons twenty-one years of age and older;</p> <p>B. Marijuana extracts, such as hash, hash oil, shatter, and wax can be infused in products sold in a marijuana retail store, but RCW 69.50.354 does not allow the sale of extracts that are not infused in products. A marijuana extract does not meet the definition of a marijuana-infused product per RCW 69.50.101;</p> <p>C. Internet sales and delivery of product is prohibited;</p> <p>D. No sampling or consuming of marijuana, marijuana-infused products, or marijuana paraphernalia shall occur on premises of licensed retail establishment.</p>

**18.60.040 Business License Required.**

A. 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 conditional use permit required by Section 17.10.005 below.

B. A business license is required from the City for operation of any recreational marijuana producer, processor or retail outlet.

**18.60.050 Signs and Advertising.**

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

**18.60.060 Security Requirements.**

Security measures at all licensed premises shall comply with the requirements of WAC 314-55-083 (and all applicable rules and regulations promulgated thereunder).

**18.60.070 No City Liability – Indemnification.**

A. By accepting a permit issued pursuant to this Chapter, 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.

B. By accepting a permit issued pursuant to this Chapter, 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 marijuana business that is the subject of the license.

**Adoption by Reference.**

The City hereby adopts WAC 314-55-010 through WAC 314-55-540 by reference, as well as RCW 69.50.101. Pursuant to RCW 35A.12.140, a copy of these rules and the statute adopted by reference has been 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.