ORDINANCE NO. 17-0502

AN ORDINANCE OF THE CITY OF EDGEWOOD, WASHINGTON, RELATING TO LAND USE AND ZONING, AMENDING THE CITY’S REGULATIONS PROHIBITING ILLEGAL MARIJUANA-RELATED USES AND MARIJUANA-RELATED BUSINESSES, ADDING DEFINITIONS, AND PROHIBITING MARIJUANA COLLECTIVES, AMENDING SECTION 18.100.120 OF THE EDGEWOOD MUNICIPAL CODE, PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Edgewood adopted zoning regulations prohibiting marijuana uses and marijuana related businesses in 2014; and

WHEREAS, since that time, the Washington State Legislature has amended the regulations relating to medical and recreational marijuana; and

WHEREAS, one of the recent amendments has been to eliminate “collective gardens” and to add “cooperatives”; and

WHEREAS, RCW 69.51A.250(3)(c) specifically acknowledges that “cooperatives” may not be located in a city if the city has prohibited it in the city’s zoning code; and

WHEREAS, the City desires to update its regulations to be consistent with State Law and to prohibit “cooperatives” within City limits; and

WHEREAS, the SEPA Responsible Official issued a DNS for this ordinance on May 3, 2017, 2017; and

WHEREAS, the Planning Commission held a public hearing on this ordinance on May 2, 2017; and

WHEREAS, the Planning Commission submitted a formal recommendation of approval to the Council dated May 1, 2017; and

WHEREAS, the City Council considered this ordinance during its regular City Council meeting of June 6, 2017;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 18.100.120 of the Edgewood Municipal Code is hereby amended to read as follows:

18.100.120 Marijuana-Related Uses—Prohibited.

A. Definitions.
1. The definitions in Section 69.51A.010 RCW (relating to Medical Cannabis) are hereby adopted by reference.

2. The definitions in Section 69.50.101 RCW are hereby adopted by reference.

The following definitions shall apply for purposes of this section:

1. “Collective garden” means the growing, production, processing, transportation, and delivery of cannabis, by qualifying patients for medical use, in accordance with the provisions of Chapter 69.51A RCW.

2.3. “Marijuana-related business” means any facility for the growing, production, processing, transportation sale and/or delivery of marijuana or marijuana products in accordance with the provisions of Chapter 69.50 RCW. Without limitation of the foregoing, marijuana-related businesses specifically include marijuana producers, marijuana processors and marijuana retailers as defined by Chapter 69.50 RCW. “Cooperatives” as described in RCW 69.51A.250, are included in this definition of “marijuana-related businesses.”

3.4. “Illegal marijuana uses” means any growing, production, processing, transportation sale and/or delivery of cannabis or marijuana or marijuana products under Chapters 69.51A and 69.50 RCW which is in violation of either state or federal law. Provided, however, that nothing herein shall be construed as criminalizing the growing or manufacture of cannabis by a qualifying patient or designated provider in accordance with RCW 69.51A.040.

Unless the context clearly indicates otherwise, all other terms used in this section shall have the meanings established pursuant to Chapters 69.50 and 69.51A RCW.

B. Prohibition. Collective gardens, Cooperatives, marijuana-related businesses and illegal marijuana uses are prohibited in the following zoning districts:
1. All single-family, multi-family and mixed residential zones, including without limitation SF-2, SF-3, SF-5, MR-1, MR-2 and MUR;

2. All town center, commercial and business park zones, including without limitation TC, C, and BP;

3. All industrial zones, including without limitation I;

4. All public zones, including without limitation P; and


C. Additional Violations.

1. It is unlawful to own, establish, operate, use or permit the establishment or operation of a marijuana-related business, marijuana cooperative, or to produce, process, dispense, barter, sell or deliver medical or recreational marijuana, except as otherwise allowed in the definition of "illegal marijuana uses" in Section 18.100.120(4). This prohibition extends to producers, processors, retailers and collectives, even if the same are licensed by the State of Washington. This prohibition applies to any person who participates as an employee, contractor, agent or volunteer, or in any other manner or capacity in any marijuana-related business or illegal marijuana use, regardless of whether he/she has a license from the State of Washington.

2. It is unlawful to perform any group marijuana cultivation activities, including cooperatives, anywhere in the City, regardless of whether such group cultivation or cooperatives are addressed in chapter 69.51A RCW and allowed with a license from the State.

3. It is unlawful to lease, rent, or otherwise allow any site, whether located indoors, outdoors, in any building, premises, location or land in the City, for marijuana-related businesses or illegal marijuana uses, regardless of whether such activity has been licensed by the State of Washington.
4. The City shall not issue any business license for any marijuana-related business or illegal marijuana use. Any business license obtained through misrepresentation of the activities conducted by the individual business or use shall be invalid and of no force and effect.

D. No Vested or Nonconforming Rights. Neither this Section 18.100.120 nor any other City Ordinance, City action, failure to act, statement, representation, certificate, license, approval or permit issued by the City or its departments, or their respective representatives, agents, employees, attorneys or assigns, shall create, confer, or convey any vested or nonconforming right or benefit regarding any marijuana-related business or illegal marijuana use, even if licensed by the State of Washington.

E. Penalty. Violations of this Section 18.100.120 shall be enforced as set forth in chapter 18.85 EMC, or as applicable, the Uniform Controlled Substances Act, chapter 69.50 RCW. In addition to any other applicable remedy and/or penalty, any violation of this section is declared to be a public nuisance per se, and may be abated by the city attorney under applicable provisions of this code or state law, including but not limited to the provisions of Chapter 1.10 EMC, Chapter 8.05 EMC and Chapter 18.30 85 EMC.

Section 2. Pursuant to RCW 35A.12.140, a copy of RCW 69.51A.010, RCW 69.50.101 and RCW 69.51A.250 are attached hereto. These statutes have been filed in the office of the City Clerk for examination by the public as an Exhibit to this Ordinance. These statutes have been available to the public while this Ordinance was under consideration by the Council.

Section 3. Severability. 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 or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 4. Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City, and this Ordinance shall take effect and be in full force five (5) days after the date of publication.

Presented to Council for its first Reading on April 4, 2017
Presented to Council for its second Reading on June 6, 2017

PASSED BY THE CITY COUNCIL ON THE JUNE 13, 2017

Daryl Eidinger, Mayor