

**CITY OF NEWPORT**

**ORDINANCE NO. 2192**

**AN ORDINANCE AMENDING SECTION 4.20.040  
OF THE NEWPORT MUNICIPAL CODE  
RELATED TO SPACING REQUIREMENTS BETWEEN  
RECREATIONAL MARIJUANA FACILITIES AND CHILD CARE FACILITIES**

**WHEREAS**, on January 18, 2022, the Newport City Council received public testimony asking that it revisit its local regulations requiring recreational marijuana facilities be at least 1,000 feet from child care facilities and the Council agreed to review said provisions; and

**WHEREAS**, City of Newport's regulation of recreational marijuana facilities was put in place following the passage of Measure 91, in 2014, which legalized the sale and consumption of marijuana subject to Oregon law; and

**WHEREAS**, Measure 91 included a phase-in period to provide the Oregon Liquor Control Commission (OLCC) and local governments time to adopt rules for regulating the various types of marijuana businesses, including retail sale of marijuana for recreational use; and

**WHEREAS**, Newport elected to put in place a set of local regulations with Ordinance No. 2089, adopted December 7, 2015, that requires recreational marijuana facilities be located at least 1,000 feet from each other, and that they be at least 1,000 feet from child care facilities. State law at the time required that marijuana retailers be located at least 1,000 feet from schools; and

**WHEREAS**, in 2017, with House Bill 2198, the Oregon Legislature amended the 1,000 foot spacing requirement from schools, allowing marijuana retailers as close as 500 feet if OLCC determined that there is a physical or geographic barrier capable of preventing children from traversing to the premises of the marijuana retailer; and

**WHEREAS**, the following year, with SB 1544, the Oregon Legislature further amended the 1,000 foot school spacing requirement to allow a marijuana retailer to be as close as 500 feet, irrespective of whether or not there is a physical or geographic barrier, provided they were established before August 1, 2017 in accordance with a city or county ordinance adopted to implement Measure 91; and

**WHEREAS**, when adopting Ordinance No. 2089, the City Council determined that a 1,000 foot spacing requirement should be put in place between recreational marijuana facilities and established child care facilities because the children at such facilities are just as impressionable as those that attend an elementary or secondary school where the State imposed a 1,000 foot spacing requirement; and

**WHEREAS**, considering that the State of Oregon has since amended its 1,000 foot spacing requirement between recreational marijuana facilities and schools it is appropriate that the City of Newport make a change to its 1,000 foot spacing requirement between recreational marijuana facilities and child care facilities; and

**WHEREAS**, aligning the spacing requirements between recreational marijuana facilities and schools and child care facilities simplifies the process of identifying available sites, and increases the number of potential properties where recreational marijuana

facilities can be located; and

**WHEREAS**, the City Council held a public hearing on February 22, 2022 regarding the question of the proposed revisions and voted in favor of their adoption after considering the evidence and argument in the record.

**THE CITY OF NEWPORT ORDAINS AS FOLLOWS:**

**Section 1.** The above findings are adopted as support for the amendments, below.

**Section 2.** Section 4.20.040(A)(8) presently states:

In cases where a Recreational Marijuana Facility is involved in retail sales of marijuana items, such facility is located at least 1,000 feet from an established child care facility identified and depicted on a map prepared by the City of Newport titled "Child Care Facilities in the City of Newport.["]

Section 4.20.040(A)(8) is amended to read as follows:

In cases where a Recreational Marijuana Facility is involved in retail sales of marijuana items, such facility is located at least 1,000 feet from an established Child Care Facility identified and depicted on a map prepared by the City of Newport titled "Child Care Facilities in the City of Newport," except that it may be located as close as 500 feet if either of the following exist:

- a. The City Manager, or designee, determines that there is a physical or geographic barrier capable of preventing children from traversing to the premises of the Recreational Marijuana Facility; or
- b. The Recreational Marijuana Facility was licensed by the City of Newport prior to August 1, 2017.

**Section 3.** Section 4.20.040(B) presently states:

For the purpose of determining the distance between marijuana retailers or a marijuana retailer and child care facility, to establish compliance with the requirements of section 4.20.040(A) of this Title, "within a 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property of an established marijuana retailer or child care facility and the closest point of the licensed premises.

Section 4.20.040(B) is amended to read as follows:

For the purpose of compliance with the requirements of section 4.20.040(A) of this Title, the distance between Recreational Marijuana Facilities, or a Recreational Marijuana Facility and a Child Care Facility, shall be determined by way of a straight line measurement in a radius extending in any direction from the closest point anywhere on the boundary line of the real property of an established Recreational Marijuana Facility or

Child Care Facility and the closest point of the licensed premises.

**Section 4.** This ordinance shall take effect 30 days after its adoption.

Date adopted and read by title only: February 22, 2022.

Signed by the Council President on February 22, 2022.

  
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Cynthia Jacobi, Council President

ATTEST:

  
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Margaret M. Hawker, City Recorder