

**CITY OF MONROE
ORDINANCE NO. 017/2017**

AN ORDINANCE OF THE CITY OF MONROE,
WASHINGTON, AMENDING MONROE MUNICIPAL CODE
CHAPTER 18.70 MARIJUANA RELATED USES;
REPLACING AND UPDATING THE CITY'S ZONING
PROHIBITION UPON MEDICAL MARIJUANA COLLECTIVE
GARDENS WITH A NEW PROHIBITION ON MARIJUANA
COOPERATIVES IN ORDER TO REFLECT CURRENT
STATE LAW; SETTING FORTH LEGISLATIVE FINDINGS;
PROVIDING FOR SEVERABILITY; AND ESTABLISHING
AN EFFECTIVE DATE

WHEREAS, the City of Monroe regulates and prohibits marijuana-related land uses through the provisions codified in Chapter 18.70 MMC; and

WHEREAS, the City's previous permanent regulations encompassed and prohibited medical marijuana collective gardens, as that term has historically been used and defined by Chapter 69.51A RCW; and

WHEREAS, through recent enactments of the State Legislature, the previous statutory provisions governing medical marijuana collective gardens have been replaced and superseded by new regulations for marijuana cooperatives; and

WHEREAS, municipalities are expressly authorized by RCW 69.51A.250(3)(c) to adopt local zoning provisions that prohibit marijuana cooperatives; and

WHEREAS, on March 7, 2017, the Monroe City Council adopted emergency Ordinance No. 005/2017, which established interim zoning amendments to Monroe Municipal Code (MMC) 18.70, Marijuana related uses, in order to clarify that the City's categorical zoning prohibition against marijuana-related land uses specifically encompasses and applies to marijuana cooperatives; and

WHEREAS, a public hearing was held before the City Council on April 11, 2017, and the Council adopted additional legislative findings in support of Ordinance No. 005/2017 through the approval of Resolution No. 012/2017 at the conclusion of the public hearing; and

WHEREAS, the City Council desires to permanently adopt the substance of the interim regulations contained in Ordinance No. 005/2017; and

WHEREAS, as the City of Monroe's marijuana provisions are included in MMC Title 18 "Planning and Zoning," a Planning Commission public hearing and recommendation to the City Council is required for any permanent amendments to the City's marijuana regulations; and

WHEREAS, Monroe Municipal Code (MMC) section 21.20.040(B) requires that the Planning Commission shall review and make recommendations on the following:

“Amendments to the subdivision code, zoning code, and environmental code (MMC Titles 17 through 20);” and

WHEREAS, a Planning Commission public hearing was held on the marijuana amendments on May 22, 2017; and

WHEREAS, following the public hearing and deliberation, the Planning Commission adopted findings and recommended amendments related to Chapter 18.70 MMC Marijuana related uses; and

WHEREAS, a SEPA Determination of Non-Significance (DNS) was issued on the proposed marijuana code amendments on May 1, 2017, with no comments received and no appeal filed; and

WHEREAS, the proposed amendments were transmitted to the State of Washington for State agency review in accordance with RCW 36.70A.106 on April 13, 2017; and

WHEREAS, on June 27, 2017, and July 11, 2017, the City Council considered the recommendation of the Planning Commission.

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

Section 1. Amendment of Chapter 18.70 MMC. Chapter 18.70 of the Monroe Municipal Cod, Marijuana related uses, is hereby amended to provide as follows:

**Chapter 18.70
MARIJUANA RELATED USES**

Sections:

- 18.70.010 Marijuana cooperatives – Definitions~~[COLLECTIVE GARDENS].~~
- 18.70.020 Marijuana cooperatives~~[MEDICAL CANNABIS COLLECTIVE GARDENS].~~
- 18.70.030 State-licensed facilities – Definitions.
- 18.70.040 Marijuana related uses.

18.70.010 Marijuana cooperatives – Definitions~~[COLLECTIVE GARDENS].~~

~~["COLLECTIVE GARDEN" MEANS THE GROWING, PRODUCTION, PROCESSING, TRANSPORTATION, AND DELIVERY OF CANNABIS, BY QUALIFYING PATIENTS FOR MEDICAL USE, AS SET FORTH IN CHAPTER 69.51A RCW, AND SUBJECT TO THE FOLLOWING CONDITIONS:~~

~~A. A COLLECTIVE GARDEN MAY CONTAIN NO MORE THAN FIFTEEN PLANTS PER PATIENT UP TO A TOTAL OF FORTY FIVE PLANTS;~~

~~B. A COLLECTIVE GARDEN MAY CONTAIN NO MORE THAN TWENTY-FOUR OUNCES OF USABLE CANNABIS PER PATIENT UP TO A TOTAL OF SEVENTY-TWO OUNCES OF USABLE CANNABIS;~~

~~C. A COPY OF EACH QUALIFYING PATIENT'S VALID DOCUMENTATION, INCLUDING A COPY OF THE PATIENT'S PROOF OF IDENTITY, MUST BE AVAILABLE AT ALL TIMES ON THE PREMISES OF THE COLLECTIVE GARDEN;~~

~~D. NO USABLE CANNABIS FROM THE COLLECTIVE GARDEN IS DELIVERED TO ANYONE OTHER THAN ONE OF THE QUALIFYING PATIENTS PARTICIPATING IN THE COLLECTIVE GARDEN;~~

~~E. A COLLECTIVE GARDEN MAY CONTAIN SEPARATE AREAS FOR GROWING, PROCESSING, AND DELIVERING TO ITS QUALIFIED PATIENTS; PROVIDED, THAT THESE SEPARATE AREAS MUST BE PHYSICALLY PART OF THE SAME PREMISES, AND LOCATED ON THE SAME PARCEL OR LOT. A LOCATION UTILIZED SOLELY FOR THE PURPOSE OF DISTRIBUTING CANNABIS SHALL NOT BE CONSIDERED A COLLECTIVE GARDEN; AND~~

~~F. NO MORE THAN ONE COLLECTIVE GARDEN MAY BE ESTABLISHED ON A SINGLE TAX PARCEL.]~~

A. Unless the context clearly indicates otherwise, all terms used in MMC 18.70.010 et seq. shall have the meanings established pursuant to Chapter 69.51A RCW.

B. "Marijuana cooperative" means a cooperative for acquiring and supplying the resources needed to produce and process marijuana for qualifying patients or designated providers pursuant to RCW 69.51A.250.

18.70.020 Marijuana cooperatives[MEDICAL CANNABIS COLLECTIVE GARDENS].

Marijuana cooperatives["COLLECTIVE GARDENS"] as **established[DEFINED] in **RCW 69.51A.250**[MMC 18.70.010] are prohibited in the following zoning districts:**

A. All residential zones, including without limitation the R, SR, UR, and MR zoning districts;

B. All commercial office zones, including without limitation the GC, SC, DC, PO, MUC, MUMC and mixed use zoning districts;

C. All industrial zones, including light and general industrial;

D. All public zones, service, and limited open space airport zones;

E. Any new zoning district established after June 4, 2013.

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 and/or state law, including without limitation the provisions of Chapter 1.04 MMC.

18.70.030 State-licensed facilities – Definitions.

A. Unless the context clearly indicates otherwise, all terms used in MMC 18.70.030 et seq. shall have the meanings established pursuant to RCW 69.50.101.

B. “Marijuana” means all parts of the plant cannabis, whether growing or not, with a THC concentration greater than zero point three 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. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plants, 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 seeds of the plant which are incapable of germination.

C. “Marijuana processor” means a person licensed by the State Liquor Control Board to process marijuana into usable marijuana and marijuana infused products, package and label usable marijuana and marijuana infused products for sale in retail outlets, and sell usable marijuana and marijuana infused products at wholesale to marijuana retailers.

D. “Marijuana producer” means a person licensed by the State Liquor Control Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

E. “Marijuana infused products” means products that contain marijuana or marijuana extracts and are intended for human use. The term “marijuana infused products” does not include usable marijuana.

F. “Marijuana retailer” means a person licensed by the State Liquor Control Board to sell usable marijuana and marijuana infused products in a retail outlet.

G. “Usable marijuana” means dried marijuana flowers. The term “usable marijuana” does not include marijuana infused products.

18.70.040 Marijuana related uses.

Marijuana processors, marijuana producers, and marijuana retailers, as defined in MMC 18.70.030, are prohibited in the following zoning districts:

A. All residential zones, including without limitation the R, SR, UR, and MR zoning districts;

B. All commercial office zones, including without limitation the GC, SC, DC, PO, MUC, MUNC and mixed use zoning districts;

C. All industrial zones, including light and general industrial;

D. All public zones, service, and limited open space zones including the limited open space – airport zone; and

E. Any new zoning district established after May 3, 2015.

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 the applicable provisions of this code or state law, including but not limited to the provisions of Chapter 1.04 MMC.

Section 2. Findings. The above recitals and the content of Agenda Bill Nos. AB17-107 and AB17-110 are hereby adopted as legislative findings in support of the amendments set forth in this ordinance. The City Council further adopts by reference the findings contained in the Planning Commission's June 12, 2017, recommendation and in Resolution No. 012/2017.

Section 3. Copy to Commerce. Pursuant to RCW 36.70A.106, a true and correct copy of this ordinance shall be transmitted to the Department of Commerce, Growth Management Services Division, within 10 days after adoption.

Section 4. 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 5. Effective Date. This ordinance shall be in full force and effect five (5) days from and after its passage and approval and publication as required by law.

ADOPTED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 11 day of July, 2017.

First Reading: June 27, 2017
Adoption: July 11, 2017
Published: July 14, 2017
Effective: July 19, 2017

CITY OF MONROE, WASHINGTON:



Geoffrey Thomas, Mayor

(SEAL)

ATTEST:

APPROVED AS TO FORM:



Elizabeth M. Adkisson, MMC, City Clerk



J. Zachary Lell, City Attorney