

ORDINANCE NO. 007/2013

AN ORDINANCE OF THE CITY OF MONROE, WASHINGTON; RENEWING INTERIM ZONING REGULATION ADOPTED UNDER ORDINANCE NO. 026/2012 AND CODIFIED AT CHAPTER 18.70 MMC MARIJUANA RELATED USES; ADOPTING FINDINGS IN SUPPORT THEREOF; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the primary responsibility of the City of Monroe is to ensure the safety and protection of its citizens and the Monroe community; and

WHEREAS, for the reasons set forth in this ordinance, the Monroe City Council deems it necessary to renew previously enacted interim zoning regulations regarding marijuana-related uses; NOW, THEREFORE,

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

Section 1. Findings. As its findings in support of the moratorium renewal imposed by this ordinance, the Monroe City Council hereby adopts the recitals set forth above, together with the following:

- A. Recent amendments to Chapter 69.51A RCW, relating to the medical use of cannabis, have expanded the scope of certain activities involving the use of cannabis for medical purposes that are permitted under state law, and
- B. Section 69.51A.085 RCW allows “qualifying patients” to create and participate in “collective gardens” for the purpose of producing, processing, transporting, and delivering cannabis for medical use, subject to certain conditions, and
- C. Section 69.51A.140 RCW delegates authority to cities and towns to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements, and business taxes as exercises of the City’s police powers, and
- D. The City Council understands that approved medical uses of cannabis may provide relief to patients suffering from debilitating or terminal conditions, but potential secondary impacts from the establishment of facilities for the growth, production, and processing of medical cannabis are not appropriate for any zoning designation within the City, and
- E. The City Council further understands that while the medical benefits of cannabis have been recognized by the state legislature, cannabis, also known as marijuana, remains a Schedule I controlled substance under the federal Controlled Substances Act (CSA), and possession and use of cannabis is still a violation of federal law. The City Council wishes to exercise the authority granted pursuant to state law in order to clarify that the establishment of a collective garden will be deemed to be a violation of city zoning ordinances, but the City Council expressly disclaims any intent to exercise authority over collective gardens in a manner that would directly conflict with the CSA.
- F. Initiative 502 directs the State Liquor Control Board (SCLB) to develop rules and regulations to:

1. Determine the number of producers, processors and retailers of marijuana by county;
 2. Develop licensing and other regulatory measures;
 3. Issue licenses to producers, processors, and retailers at locations which comply with the Initiative's distancing requirements prohibiting such uses within one thousand feet of schools and other designated public facilities; and
 4. Establish a process for the City to comment prior to the issuance of such licenses; and
 5. The SLCB has recently announced a delay in the implementation of its rules until December 2013 and a delay in license issuance until approximately June 2014;
 6. The SLCB is presently considering whether to conduct environmental review under SEPA; and
 7. Upon the SLCB's completion of its implementation process, the City intends to prepare and effectuate a formal work plan to expeditiously develop a legally-compliant permanent local regulatory framework for marijuana-related uses.
- G. While the production, processing, and retailing of marijuana remains in violation of the federal CSA, the City Council wishes to acknowledge the will of the Washington voters and the authority exercised by the state of Washington and the State Liquor Control Board to license such facilities, leaving all issues relating to the legality, licensing, siting and permitting of such facilities to be determined by the federal and state governments in the exercise of their lawful authority, as finally determined by a court of appropriate jurisdiction,
- H. Many jurisdictions around the country that have approved marijuana uses have experienced impacts, including but not necessarily limited to:
- a. Conversion of residential uses into cannabis cultivation and processing facilities, removing valuable housing stock from the community.
 - b. Degraded neighborhood aesthetics due to shuttered-up homes, offensive odors, increased nighttime traffic, parking issues, and loitering from potential purchasers looking to buy from a collective member.
 - c. Environmental damages from chemicals being discharged into surrounding and off-site soils, and into storm and sanitary sewer systems.
 - d. Risk of fire hazard due to overloaded service connections used to operate grow lights and fans.
 - e. Improper ventilation leading to high levels of moisture and mold.
 - f. Illegal structural modifications.
 - g. Criminal issues such as home invasions and burglaries at medical cannabis facilities, theft and property damage.
- I. The City has received inquiries from individuals concerning the potential establishment of medical cannabis collective gardens in Monroe.
- J. If the City's interim zoning regulations are not renewed, marijuana-related uses could become established before the City adopts the necessary permanent regulatory tools to ensure that their location is appropriate and that the secondary impacts of such facilities are sufficiently minimized and mitigated.

- K. The City Council deems it to be in the public interest to renew the existing interim zoning regulations on marijuana-related uses.
- L. Article 11, Section 11 of the Washington State Constitution authorizes the City Council to adopt interim zoning controls, and RCW 35A.63.220 and RCW 36.70A.390 provide that interim zoning controls may be renewed as long as a public hearing is held and findings of fact are made prior to such renewal.
- M. The City Council has held a public hearing as required by law.

Section 2. Interim Zoning Controls Imposed. Pursuant to the authority of article 11, section 11 of the Washington State Constitution, RCW 35A.63.220, and RCW 36.70A.390, the interim zoning controls adopted under Ordinance 026/2012 and presently codified at Chapter 18.70 MMC are hereby renewed.

Section 3. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council held a public hearing May 7, 2013 at 7:00 p.m. in order to take public testimony concerning the renewal of the interim zoning controls set forth in Section 2 above.

Section 4. Transmittal to Department of Commerce. Pursuant to RCW 36.70A.106, this ordinance shall be transmitted to the Washington State Department of Commerce.

Section 5. 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 6. Effective Date; Duration. This ordinance shall become effective June 4, 2013. The City Clerk is directed to publish the attached summary of this ordinance at the earliest possible date. The renewed interim zoning controls set forth in this ordinance shall be in effect for a period of six months from the date this ordinance is effective and shall automatically expire on that date unless renewed as provided in RCW 35A.63.220 and RCW 36.70A.390, or unless terminated sooner by the City Council.

PASSED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 21th day of May, 2013.

1st Reading: 05/14/2013
 2nd Reading: 05/21/2013
 Published: 05/28/2013
 Effective: 06/04/2013

CITY OF MONROE, WASHINGTON:


 Robert Zimmerman, Mayor

ATTEST/AUTHENTICATED:


 Eadye Martinson, Deputy City Clerk

APPROVED AS TO FORM:


 J. Zachary Lell, City Attorney