

CODE

CITY OF MONROE
ORDINANCE NO. 025/2013

AN ORDINANCE OF THE CITY OF MONROE, WASHINGTON, ADOPTED PURSUANT TO ARTICLE 11, SECTION 11 OF THE WASHINGTON CONSTITUTION, RCW 35A.63.220 AND RCW 36.70A.390; ESTABLISHING A MORATORIUM UPON THE CITY'S RECEIPT AND PROCESSING OF LAND USE AND BUSINESS LICENSE APPLICATIONS FOR MARIJUANA-RELATED USES; ADOPTING A ZONING REGULATION PROHIBITING MEDICAL CANNABIS COLLECTIVE GARDENS IN ALL ZONING DISTRICTS OF THE CITY; ENTERING LEGISLATIVE FINDINGS; REQUESTING PREPARATION OF A WORK PLAN, DECLARING AN EMERGENCY AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE

WHEREAS, on November 12, 2013, the Monroe City Council received the report and recommendation of its Planning Commission regarding the permanent adoption of the interim zoning regulations governing the use of cannabis and marijuana within the City of Monroe; and

WHEREAS, on first presentation, the City Council took no action, and returned the matter to Staff for further review and recommendation; and

WHEREAS, the Monroe City Council deems it to be in the public interest to adopt a moratorium for consideration of the use of business license regulatory processes to prohibit business operations in violation of federal law.

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

Section 1. Preliminary Findings. As its legislative findings, 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. The City Council also finds that adoption of this ordinance is necessary to ensure that applicants do not vest to the body of local regulations that would otherwise be in effect. As such, a public emergency exists requiring this ordinance to take place immediately upon passage.

Section 2. Moratorium Imposed. There is hereby imposed a moratorium upon the City's acceptance and processing of any land use or business license application for all marijuana-related uses. Without limitation of the foregoing, the moratorium imposed under this section expressly encompasses: (i) Marijuana processors, as defined by Chapter 69.50 RCW; (ii) marijuana producers, as defined by Chapter 69.50 RCW; and (iii) marijuana retailers, as defined by Chapter 69.50 RCW.

Section 3. Zoning Regulation Established. Title 18 of the Monroe Municipal Code is amended to add Chapter 18.70 MMC Marijuana Related Uses to read as follows::

**Chapter 18.70
MARIJUANA RELATED USES**

- 18.70.010 Collective gardens.**
- 18.70.020 Medical cannabis collective gardens.**

18.70.010 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.

18.70.020 Medical cannabis collective gardens.

“Collective gardens” as defined in 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.

Section 4. Work Plan. Monroe Planning Commission is hereby requested and directed to prepare a Work Plan and provide the same to the City Council regarding a public hearing schedule and deliberation schedule for the Commission. This Work Plan shall be reported to the City Council. It is the City Council’s direction and desire that the interim ordinance and moratorium remain in effect only for such period as is necessary to allow the Planning Commission to review the direction of the City Council and provide its further recommendations to the City Council.

Section 5. Transmittal to Department of Commerce. Pursuant to RCW 36.70A.106, this ordinance shall be transmitted to the Washington State Department of Commerce.

Section 6. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent

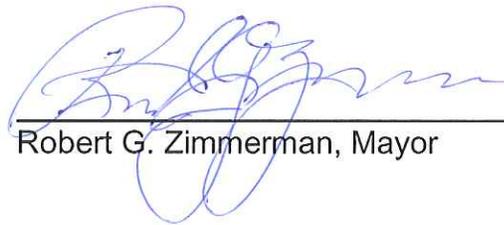
jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 7. Declaration of Emergency; Effective Date. Based upon the recitals and findings set forth above, the City Council hereby declares a public emergency requiring this ordinance to take effect immediately. This ordinance shall accordingly be in full force and effect immediately upon adoption.

PASSED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 10th day of December, 2013.

1st and Final Reading: December 10, 2013
2nd Reading: Waived
Published: December 17, 2013
Effective: December 10, 2013

CITY OF MONROE, WASHINGTON:



Robert G. Zimmerman, Mayor

(SEAL)

ATTEST:

APPROVED AS TO FORM:



Elizabeth M. Smoot, CMC, City Clerk



J. Zachary Lell, City Attorney