

CODE

CITY OF MONROE
ORDINANCE NO. 001/2014

AN ORDINANCE OF THE CITY OF MONROE, WASHINGTON; ADOPTING AN INTERIM ZONING REGULATION TO BE CODIFIED IN CHAPTER 18.70 MMC, MARIJUANA RELATED USES, AS SECTIONS 18.70.030 AND 18.70.040 TO ZONE FOR STATE-LICENSED FACILITIES; 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 ADOPT interim zoning regulations regarding state-licensed marijuana-related uses as a part of the City's code.

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

Section 1. 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 State Liquor Control Board (SCLB) has developed rules and regulations to:

1. Determine the number of producers, processors and retailers of marijuana by county;
2. 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
3. Establish a process for the City to comment prior to the issuance of such licenses.

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. The State Attorney General is preparing an opinion regarding a city's authority to zone with respect to State-licensed marijuana uses.
- K. The City Council deems it to be in the public interest to adopt final zoning regulations.

Section 2. 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 are hereby adopted as shown on the attached Exhibit A incorporated by this reference as fully as if herein set forth.

Section 3. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council held a public hearing January 14, 2014, at 7:00 p.m. in order to take public testimony concerning the adoption of the 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 five (5) days following publication of a summary of this ordinance. 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.

ADOPTED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 11th day of February, 2014.

1st Reading: February 4, 2014
2nd/Final Reading: February 11, 2014
Published: February 18, 2014
Effective: February 23, 2014

CITY OF MONROE, WASHINGTON:



Geoffrey Thomas, Mayor

(SEAL)

ATTEST:

APPROVED AS TO FORM:



Elizabeth M. Smoot, CMC, City Clerk



J. Zachary Lell, City Attorney

EXHIBIT A

Sections:

18.70.030 State-licensed facilities - Definitions.

18.70.040 Marijuana related uses.

18.70.030 State-licensed facilities - Definitions.

A. Unless the context clearly indicates otherwise, all terms used in this section and MMC 18.70.040 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.

Section 18.70.040 Marijuana related uses.

A. The production, processing and retailing of marijuana is and remains illegal under federal law. Nothing herein or as provided elsewhere in the ordinances of the City of Monroe is an authorization to circumvent federal law or provide permission to any person or entity to violate federal law. Only state-licensed marijuana producers, marijuana processors, and marijuana retailers may locate in the City of Monroe and then only pursuant to a license issued by the state of Washington. The purposes of these provisions is solely to acknowledge the enactment by Washington voters of Initiative 502 and a state licensing procedure and to permit to, but only to, the extent required by state law marijuana producers, marijuana processors, and marijuana retailers to operate in designated zones of the city.

B. Marijuana producers may be located only in the general industrial zone of the city. Such facilities and uses may be located only at designated sites licensed by the state of Washington and fully conforming to state law.

C. Marijuana processors may locate in light and general industrial zones of the city, but only at designated sites licensed by the state of Washington and fully conforming to state law.

D. Marijuana retailers may locate only in the GC and SC zones, at designated sites licensed by the state of Washington and fully conforming to state law.

E. 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.