

CODE

CITY OF MONROE
ORDINANCE NO. 009/2014

AN ORDINANCE OF THE CITY OF MONROE, WASHINGTON; AMENDING CHAPTER 18.70 MMC, MARIJUANA RELATED USES; ADOPTING PERMANENT ZONING REGULATIONS FOR STATE-LICENSED MARIJUANA RELATED FACILITIES WITHIN THE CITY; 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, the City previously adopted interim zoning regulations for state-licensed marijuana related facilities, and said interim regulations are scheduled to expire automatically on August 23, 2014, the sunset date of Ordinance No. 001/2014; and

WHEREAS, for the reasons set forth in this ordinance, the Monroe City Council deems it necessary and appropriate to adopt permanent zoning regulations regarding state-licensed marijuana related facilities.

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

Section 1. Findings. As legislative findings in support of this ordinance, the Monroe City Council hereby adopts the above recitals, the content of Agenda Bill Nos. 14-100 and 14-104, the Planning Commission findings dated August 7, 2014 (Exhibit B, attached hereto), and the findings set forth in Ordinance No. 001/2014, together with the following:

- A. While the production, processing, and retailing of marijuana remains in violation of the federal Controlled Substances Act, 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 other 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.
- B. The State Attorney General has issued a formal opinion acknowledging and reaffirming municipal zoning authority with respect to state-licensed marijuana uses.

- C. The Planning Commission held a public hearing on the substance of this ordinance on July 22, 2013, and recommended adoption by the City Council. The City Council held a public hearing on the substance of this ordinance on January 14, 2014.
- D. The City is authorized by State law, including but not limited to Chapter 35A.11 RCW, Chapter 35A.63 RCW, and Chapter 36.70A RCW, to enact local regulations governing the use of land.
- E. The regulations set forth in this ordinance have been processed and considered by the City in material compliance with all applicable procedural requirements, including but not limited to requirements related to public notice and comment.
- F. All relevant requirements of SEPA have been satisfied with respect to this ordinance.
- G. The City Council has carefully considered, and the regulations set forth in this ordinance satisfy, the review requirements and criteria set forth in Title 18 and Title 21 MMC. In adopting this ordinance, the City considered and was guided by the GMA planning goals set forth at RCW 36.70A.020.
- H. The regulations set forth in this ordinance are consistent with and will implement the City's Comprehensive Plan and meet the requirements and intent of the MMC.
- I. The regulations set forth in this ordinance are beneficial to the public health, safety and welfare, and are in the public interest.

Section 2. Amendment of Chapter 18.70 MMC. Chapter 18.70 of the Monroe Municipal Code is hereby amended by the addition of new permanent Sections 18.70.030 and 18.70.040 to provide in their respective entirety as contained in Exhibit A, attached hereto and incorporated herein by this reference as if set forth in full.

Section 3. Transmittal to Department of Commerce. Pursuant to RCW 36.70A.106, this ordinance shall be transmitted to the Washington State Department of Commerce.

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; Intent. 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. Without prejudice to the foregoing, it is the City Council's express intent that this ordinance shall take effect immediately upon, and simultaneously with, the expiration of Ordinance No. 001/2014.

ADOPTED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 12th day of August, 2014.

1st Reading: July 22, 2014
2nd/Final Reading: August 12, 2014
Published: August 19, 2014
Effective: August 24, 2014

(SEAL)

CITY OF MONROE, WASHINGTON:



Geoffrey Thomas, Mayor

ATTEST:



Elizabeth M. Smoot, CMC, City Clerk

APPROVED AS TO FORM:



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 use 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.

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 general commercial and service commercial 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.

EXHIBIT B

Findings and Conclusions Monroe Planning Commission Adoption of Permanent Marijuana-Related Land Use Regulations

August 7, 2014

FINDINGS

Consistency with the City of Monroe 2005-2025 Comprehensive Plan

This proposed amendment is supported by existing goals and policies as listed below.

Land Use Goals and Policies

LUG1 - To pursue well-managed, orderly expansion of the City and actively influence the character of the City by managing land use change and by developing City regulations, facilities and services in a manner that directs and controls land use patterns and intensities.

LUG-4 - Accommodate the City's expected growth in a way that enhances its character, quality of life and economic vitality.

LUP-8.4 - Require adequate buffering where new commercial or industrial uses abut residential neighborhoods.

LUP-11.1 - Provide opportunities for various types and intensities of industrial development to locate in areas of the City that are suitable for such development, based on characteristics such as existing land use, natural features, transportation, and utility services and associated environmental impacts.

LUP-11.2 - Buffer industrial developments from surrounding uses such as residential, public open space, and light commercial uses.

Economic Development Goals and Policies

ED-P10 - Ensure that City licensing and permitting regulations, policies and procedures are coherent, fair and expeditious. Where specialized industry requirements call for the inspection by government agencies, coordinate with those agencies to eliminate duplication of efforts.

ED-P15 - Support the growth, development and requirements of commerce and industry.

Environmental Review (SEPA)

The City has issued a Mitigated Determination of Non-significance regarding the substance of these regulations.

Consistency with Chapter 36.70A (Growth Management Act)

The City submitted an ordinance adopting interim zoning regulations to the Department of Commerce on February 19, 2014, and received a Letter of Acknowledgement on February 20, 2014.

The City of Monroe Planning Commission finds as follows:

- A. While the production, processing, and retailing of marijuana remains in violation of the federal Controlled Substances Act, the Planning Commission 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 other 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.
- B. The State Attorney General has issued a formal opinion acknowledging and reaffirming municipal zoning authority with respect to state-licensed marijuana uses.
- C. The Monroe City Council originally established a moratorium on collective gardens in December 2011 and extended it in June 2012.
- D. Following Initiative 502 approval, the City adopted interim zoning regulations in December 2012 through Ordinance No. 026/2012. The City adopted Ordinance No. 007/2013 on May 21, 2013, renewing the interim regulations for a period of six months.
- E. Permanent adoption of the interim regulations was reviewed by the Planning Commission with a public hearing on July 22, 2013.
- F. The Planning Commission held a workshop on August 12, 2013, on making the interim regulations permanent prior to December 2013; and recommended adoption by the City Council.
- G. The City Council adopted Ordinance No. 025/2013 establishing a moratorium on the processing of land use and business licenses for marijuana related uses, and prohibited medical cannabis collective gardens in all zoning districts on December 10, 2013.
- H. The City Council held a public hearing on January 14, 2014, and considered adopting the interim regulations as set forth in Ordinance No. 001/2014. The public hearing was then continued to the February 11, 2014, City Council meeting.

- I. The City Council held a public hearing and adopted Ordinance No. 001/2014 for interim zoning regulations on February 11, 2014.
- J. The City Council adopted on first reading proposed Ordinance No. 009/2014 for adopting permanent zoning regulations on July 22, 2014.
- K. The City is authorized by State law, including but not limited to Chapter 35A.11 RCW, Chapter 35A.63 RCW, and Chapter 36.70A RCW, to enact local regulations governing the use of land.
- L. The regulations set forth in the proposed ordinance have been processed and considered by the City in material compliance with all applicable procedural requirements, including but not limited to requirements related to public notice and comment.
- M. All relevant requirements of SEPA have been satisfied with respect to the proposed ordinance.
- N. The Planning Commission has carefully considered, and the regulations set forth in the proposed ordinance satisfy, the review requirements and criteria set forth in Title 18 and Title 21 MMC. In adopting the proposed ordinance, the City considered and was guided by the GMA planning goals set forth at RCW 36.70A.020.
- O. The regulations set forth in this ordinance are consistent with and will implement the City's Comprehensive Plan and meet the requirements and intent of the MMC.
- P. The regulations set forth in this ordinance are beneficial to the public health, safety and welfare, and are in the public interest.

CONCLUSIONS

The proposed permanent zoning regulations are in keeping with the goals and policies of the Comprehensive Plan; are consistent with Chapter 20.04 MMC and Chapter 197-11 WAC; and have met Growth Management Act and noticing requirements.