

**CITY OF MONROE
ORDINANCE NO. 005/2017**

AN ORDINANCE OF THE CITY OF MONROE, WASHINGTON, ADOPTING INTERIM ZONING AMENDMENTS TO CHAPTER 18.70 MMC 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 PRELIMINARY SUPPORTIVE FINDINGS; REQUIRING A POST-ADOPTION PUBLIC HEARING; PROVIDING FOR SEVERABILITY; DECLARING A PUBLIC EMERGENCY; AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE

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

WHEREAS, the City's current regulations encompass and prohibit 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Legislature, the previous statutory provisions governing medical marijuana collective gardens have been replaced and superseded by new regulations for marijuana cooperatives; and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, the City Council desires to immediately amend Chapter 18.70 MMC in order to clarify that the City's categorical zoning prohibition against marijuana-related land uses specifically encompasses and applies to marijuana cooperatives.

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

Section 1. Preliminary Findings. The City Council hereby adopts the above recitals as preliminary findings in support of this ordinance. The City Council also finds that adoption of this ordinance is necessary to ensure that applicants do not vest to the body of local land use regulations that would otherwise be in effect. As such, a public emergency exists requiring that this ordinance take effect immediately upon passage.

Section 2. Amendment of Chapter 18.70 MMC. Chapter 18.70 of the Monroe Municipal Code Marijuana Related Uses is hereby amended to provide in its entirety 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 3. Public Hearing. The City Clerk is hereby authorized and directed to schedule a public hearing on the interim regulations set forth in this ordinance and to provide notice of said hearing in accordance with applicable standards and procedures. Said hearing shall be held no later than 60 days after the date of adoption hereof. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council may adopt additional legislative findings in support of this ordinance at the conclusion of said hearing.


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. Declaration of Emergency; Effective Date; Sunset. Based upon the 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 passage, and shall remain effective for a period of six months unless terminated earlier or subsequently extended by the City Council. PROVIDED, that the City Council may, in its sole discretion, renew the interim zoning regulations set forth herein for one or more six month periods in accordance with state law.

ADOPTED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 7th day of MARCH, 2017.

First/Final Reading: March 7, 2017
Adoption : March 7, 2017
Published: March 14, 2017
Effective: March 7, 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