

## ORDINANCE NO. 06-14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINGTON, WASHINGTON, AMENDING ORDINANCE No. 10-13 TO EXTEND THE INTERIM ZONING REGULATIONS FOR RECREATIONAL MARIJUANA PRODUCTION, PROCESSING, AND RETAIL USES FOR AN ADDITIONAL SIX MONTHS; AMEND THE MEASUREMENT METHOD FOR THE SENSITIVE USES BUFFER; PROVIDING FOR A PUBLIC HEARING ON THE EXTENSION; ADOPTING FINDINGS OF FACT; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Initiative 502, passed by Washington voters on November 6, 2012, and codified in Chapter 69.50 of the Revised Code of Washington (RCW), modified the State Controlled Substances Act to allow the possession of recreational marijuana for private and personal use and established a system for lawful production, processing, and retailing of recreational marijuana under state law; and

WHEREAS, the Washington State Liquor Control Board (LCB) developed rules and regulations related to the licensing and location of recreational marijuana production, processing, and retailing uses as allowed under the Initiative; and

WHEREAS, the LCB will not consider local zoning regulations in deciding whether to issue licenses for recreational marijuana producers, processors, and retailers, but those businesses are required to comply with local zoning regulations and controls; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorize the city to adopt interim land use regulations and official controls,

WHEREAS, on November 12, 2013, the Covington City Council passed Ordinance No. 10-13 which declared an emergency necessitating the immediate adoption of interim zoning regulations for recreational marijuana production, processing, and retail uses for an initial six-month period, as more particularly described in Ordinance No. 10-13; and

WHEREAS, though the LCB has recently begun issuing licenses for recreational marijuana businesses, but the land use and secondary impacts of these uses are still largely unknown and the regulations that the city will need to address them remain uncertain; and

WHEREAS, after the interim zoning regulations provided for herein were originally considered, the LCB adopted a technical amendment to the measurement method of the sensitive uses buffer to confirm with federal law; accordingly, the city must adopt that same technical amendment in the interim zoning regulations to conform with both state and federal law; and

WHEREAS, on April 22, 2014, a public hearing was held on the extension of the interim zoning regulations set forth in this ordinance and the council has weighed the testimony received; and

WHEREAS, based on the public testimony received on April 22, 2014, and materials provided by city staff, the council deems it in the public interest to extend the interim zoning regulations for recreational marijuana production, processing, and retail uses for an additional six-months to observe and investigate further the land use and secondary impacts of said uses; and

WHEREAS, nothing in this ordinance is intended nor shall be construed to authorize or approve of any violation of federal or state law;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COVINGTON, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Findings of Fact. In accordance with RCW 35A.63.220 and RCW 36.70A.390, which require the city council to adopt findings of fact justifying the adoption of interim zoning regulations, the “WHEREAS” clauses set forth above are hereby adopted as the city council’s findings of fact in support of the interim zoning regulations imposed by this ordinance and are fully incorporated herein by this reference. The city council may adopt additional findings in the event that additional evidence is presented to the city council.

Section 2. Technical Amendments to Interim Zoning Regulations. The interim zoning regulations established by Ordinance No. 10-13 shall be amended as follows:

### **Chapter 18.XX Marijuana-Related Uses**

#### **18.XX.010 Definitions.**

Unless the context clearly indicates otherwise, the terms “marijuana producer”, “marijuana processor”, and “marijuana retailer” shall have the meanings established pursuant to RCW 69.50.101.

#### **18.XX.020 Marijuana-related Uses.**

(1) The production, processing, and retailing of recreational marijuana is and remains illegal under federal law. Nothing in this chapter is an authorization to circumvent federal law or provide permission to any person or entity to violate federal law.

(2) The purpose of the provisions in this chapter 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 recreational marijuana producers, processors, and retailers to operate in designated zones of the City.

(3) Only state-licensed marijuana producers, marijuana processors, and marijuana retailers may locate in the City and then only pursuant to the license issued by the State of Washington.

(4) Marijuana producers, marijuana processors, and marijuana retailers are required to acquire all necessary business licenses, permits, and comply with all other applicable City ordinances and regulations.

#### **18.XX.030 Marijuana Producers and Processors.**

State-licensed marijuana producers and marijuana processors may only locate in the City pursuant to the following restrictions:

(1) Marijuana producers and marijuana processors must comply with all requirements of state law and the Washington State Liquor Control Board's regulations;

(2) Marijuana producers and marijuana processors may locate only in the Industrial (I) zone;

(3) Marijuana producers and marijuana processors shall not operate as an accessory to a primary use or as a home occupation;

(4) All marijuana production and processing activities shall occur within an enclosed structure and the facility shall be designed, located, constructed, and buffered to blend in with its surroundings and mitigate significant adverse impacts on adjoining properties and the community, and special attention shall be given to minimizing odor, noise, light, glare, and traffic impacts; and

(5) Marijuana producers and processors shall not locate within one thousand feet (1,000 ft) of a public or private school with curricula equivalent to elementary, junior, or senior high schools, or any facility owned or operated by such school; care center, preschool, nursery school, or other childcare facility; public park, trail, playground, or recreational facility; church, temple, synagogue, or chapel; public transit center; public library; or any game arcade admission to which is not restricted to persons aged twenty-one (21) years or older. The one thousand foot buffer shall be measured ~~by following a~~ as the shortest straight line distance from the property line of the licensed production and/or processing premises to the property line of the entities listed above. ~~nearest point of the property parcel upon which the proposed use is to be located to the nearest point of the parcel of property from which the proposed land use is to be separated.~~

#### **18.XX.040 Marijuana Retailers.**

State-licensed marijuana retailers may locate in the City pursuant to the following restrictions:

(1) Marijuana retailers must comply with all requirements of state law and the Washington State Liquor Control Board's regulations;

(2) Marijuana retailers may locate only in the General Commercial (GC) and Mixed Commercial (MC) zones;

(3) Marijuana retailers shall not operate as an accessory to a primary use or as a home occupation; and

(4) Marijuana retailers shall not locate within one thousand feet (1,000 ft) of a public or private school with curricula equivalent to elementary, junior, or senior high schools, or any facility owned or operated by such school; care center, preschool, nursery school, or other childcare facility; public park, trail, playground, or recreational facility; church, temple, synagogue, or chapel; public transit center; public library; or any game arcade admission to which is not restricted to persons aged twenty-one (21) years or older. The one thousand foot buffer shall be measured ~~by following a~~ as the shortest straight line distance from the property line of the licensed retail premises to the property line of the entities listed above.

~~nearest point of the property parcel upon which the proposed use is to be located to the nearest point of the parcel of property from which the proposed land use is to be separated.~~

**18.XX.050 Enforcement - Penalty.**

(1) Any violation of this chapter is declared to be a public nuisance per se and, in addition to any other remedy provided by law or equity, may be abated by the City under applicable provisions of this code or state law.

(2) No person or entity may violate or fail to comply with any provision of this chapter. Each person or entity commits a separate offense for each and every day they commit, continue, or permit a violation of any provision of this ordinance.

Section 3. Extension of Interim Zoning Regulations. The six-month interim zoning regulations established by Ordinance No. 10-13 shall not lapse and shall be extended for an additional six months to be effective through November 12, 2014.

Section 4. Severability. Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 5. Corrections. Upon the approval of the City Attorney, the City Clerk is authorized to make any necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

Section 6. Effective Date. This ordinance shall be published in the official newspaper of the city and shall take full force and effect five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF COVINGTON, WASHINGTON, at a regular meeting thereof this 22nd day of April, 2014.

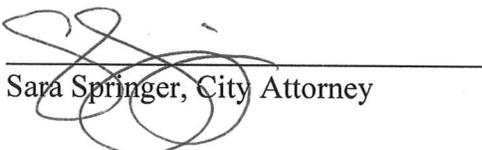
  
\_\_\_\_\_  
Mayor Margaret Harto

PUBLISHED: April 25, 2014  
EFFECTIVE: April 30, 2014

ATTESTED:

  
\_\_\_\_\_  
Sharon Scott, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Sara Springer, City Attorney