

**CITY OF PACIFIC, WASHINGTON
ORDINANCE NO. 2014-1860**

AN ORDINANCE OF THE CITY OF PACIFIC, WASHINGTON, ADOPTING FINDINGS OF FACT REGARDING ORDINANCE NO. 14-1855, RELATING TO THE RECREATIONAL AND MEDICAL USE OF MARIJUANA AND ADOPTING AN INTERIM ZONING ORDINANCE PROHIBITING THE SITING, ESTABLISHMENT AND OPERATION OF ANY STRUCTURES, PROPERTY OR USES RELATING TO RECREATIONAL OR MEDICAL MARIJUANA PRODUCTION, PROCESSING, CULTIVATION, STORAGE, SALE, DELIVERY, EXCHANGE OR BARTERING, WHICH INCLUDES A PROHIBITION ON THE SUBMISSION OF BUSINESS LICENSE APPLICATIONS FOR SUCH USES.

WHEREAS, the City plans under the Growth Management Act (“GMA,” chapter 36.70A RCW), and is required to perform SEPA prior to adopting any comprehensive plan or development regulations; and

WHEREAS, the City performed SEPA, issuing a Determination of Nonsignificance that became final on March 28, 2014 without receiving any comments; and

WHEREAS, Section 36.70A.390 of the Revised Code of Washington authorizes the City Council to adopt an interim zoning ordinance for a period of up to six months provided that a public hearing is held within at least sixty days of its adoption; and

WHEREAS, the City Council held a public hearing on the subject of Interim Zoning Ordinance No. 14-1855 on March 10, 2014; and

WHEREAS, the City Council therefore believes that the adoption of an interim zoning and business licensing ordinance temporarily banning all marijuana uses, is necessary to preserve the status quo, until the City Council can study, draft, hold public hearings and adopt the appropriate regulations (if any) to address these new uses; and

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF PACIFIC DOES ORDAIN AS FOLLOWS:

Section 1: Findings. The Council adopts all of the “whereas” sections of interim zoning Ordinance No. 14-1855 as findings to support this interim zoning ordinance, including the following:

A. The purpose of this interim zoning ordinance is to maintain the status quo while the City drafts and considers a new ordinance on the subject of medical cannabis/marijuana and recreational marijuana. Based on the information available to the City today, it is predicted that this draft ordinance will (1) explicitly prohibit medical marijuana dispensaries, medical marijuana collective gardens (including those defined in RCW 69.51A.085); and (2) explicitly prohibit recreational marijuana retailers, producers and processors, including those licensed by the State of Washington.

B. The City will consider adoption and enforcement of such an ordinance during the next six months, while this interim zoning ordinance is in effect. During this time, if the Washington State Legislature acts to adopt laws addressing medical and/or recreational marijuana, the City shall evaluate these new laws to determine whether this position should change. In addition, the City will consider whether there is any information (whether on the environmental, secondary land use and/or economic impacts) associated with marijuana uses that can be used for purposes of drafting regulations addressing such uses.

C. During the period of time that this interim zoning ordinance is in effect, the City will also consider the manner in which the negative impacts and secondary effects associated with the marijuana uses (on-going or predicted) in the City can be ameliorated, including but not limited to, the demands that will be placed upon scarce City policing, legal, policy and administrative resources; neighborhood disruption, increased transient visitors and intimidation; the exposure of school-age children and other sensitive residents to marijuana, illegal sales to both minors and adults; fraud in issuing, obtaining or using medical marijuana prescriptions, murders, robberies, burglaries, assaults, drug trafficking and other violent crimes.

D. The State of Washington has adopted a strict regulatory and enforcement system for the cultivation, processing and sale of recreational marijuana, but no licenses have yet issued, and there is no way to determine whether (or the manner in which) the State will enforce these rules. The Council also acknowledges that the State has not performed any environmental analyses that will assist cities, towns and counties in the adoption of local regulations addressing marijuana uses, and that municipalities must therefore either develop their own analyses or observe these impacts after-the-fact (or, *after* these marijuana uses locate and begin operation in cities, towns and counties throughout Washington.) Then, the municipalities will be required to “fix” the problems stemming from these uses with their already scarce resources.

E. In sum, the City Council believes that it cannot adopt legislation to address the negative environmental impacts and secondary land use effects of medical and recreational marijuana uses until the extent of these impacts are known, new laws are adopted to bridge the gap between recreational and medical marijuana uses, and there is strict enforcement of these laws.

F. No part of the interim zoning ordinance is intended to or shall be deemed to conflict with federal law, including but not limited to, the Controlled Substances Act, 21 U.S.C. Section 800 *et seq.*, the Uniform Controlled Substances Act (chapter 69.50 RCW) nor to otherwise permit any activity that is prohibited under either Act, or any other local, state or federal law, statute, rule or regulation. This interim ordinance is not intended to address or invite litigation over the question whether the State of Washington's medical or recreational marijuana laws (or this City's laws) satisfy the federal government's enforcement priorities. Nothing in this interim ordinance shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of medical cannabis or recreational marijuana in any manner not authorized by chapter 69.51A RCW or chapter 69.50 RCW. Nothing in this interim ordinance shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or that creates a nuisance, as defined herein. It is the intention of the City Council that this interim ordinance be interpreted to be compatible with federal and state enactments and in furtherance of the public purposes that those enactments encompass.

Section 2. Interim Ordinance Adopted. Interim Ordinance No. 14-1855 was adopted on February 3, 2014 for a period of six months in order to provide the City adequate time to:

A. Study the secondary land use impacts associated with the location and siting of structures and uses in which medical and recreational marijuana production, marijuana processing or marijuana retailing may take place. This includes, but is not limited to, all activities associated with medical marijuana, including individual cultivation, collective gardens, transfer, bartering, exchange and delivery of marijuana between qualified patients and designated providers. This work will begin upon adoption of this ordinance and is expected to take 4 months.

B. Allow the City adequate time to study the effects of state licensed marijuana uses as they operate in other areas (throughout Washington, Colorado and other states adopting similar laws). This work began upon adoption of this ordinance and is expected to take 4 months.

C. Await the Legislature's adoption of any new legislation on the subject of marijuana uses in Washington. The Council continues to monitor the Legislature's activity while this ordinance is in effect, or for the next six months.

D. Draft ordinances addressing marijuana uses in the City. This work will begin immediately after the activities described in A and B of this Section are complete.

E. Hold a public hearing(s) on the draft ordinances, obtain public input on such ordinances, allow the Planning Commission to make recommendations to the City Council, for the City Council to review the draft ordinance and, if desired, to adopt new regulations or prohibitions on marijuana uses. This work will begin immediately after the activities described in A, B and D are complete.

Section 3. Effect of Interim Zoning Ordinance. The City Council imposed an immediate six-month prohibition on the acceptance of all development permit and business license applications for any structure, use or operation involving marijuana production, marijuana processing or marijuana retailing, as the same are defined in that Ordinance. All such development permit and business license applications shall be rejected and returned to the applicant.

Section 4. Duration of Interim Zoning Ordinance. Interim zoning ordinance No. 14-1855 commenced on the effective date of February 3, 2014. The City held a public hearing on the interim zoning ordinance, conducted SEPA review and issued a Determination of Nonsignificance which became final March 28, 2014 with no comments from the public. The City Council therefore adopts the findings and conclusions of the interim zoning ordinance (as contemplated by Section 5 herein) through Ordinance No. 2014-1860. The interim zoning ordinance shall not terminate until six (6) months after the date of adoption, or at the time all of the events described in Section 3 have been accomplished, whichever is sooner. The Council shall make the decision to terminate the interim zoning ordinance by ordinance, and termination shall not otherwise be presumed to have occurred.

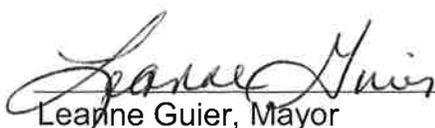
Section 5. Public Hearing on Interim Zoning. Pursuant to RCW 36.70A.390 and RCW 35.63.200, the City Council held a public hearing on this interim zoning ordinance within sixty (60) days of its adoption. This hearing was held on March 10, 2014. As specified by the interim zoning ordinance, the City Council now adopts findings of fact on the subject of this interim zoning ordinance that justify its continued imposition.

Section 6. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful 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. Publication. This Ordinance shall be published by an approved summary consisting of the title.

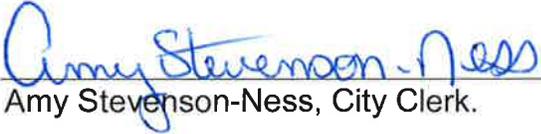
Section 8. Effective Date. This Ordinance shall take effect and be in full force and effect upon Washington State Department of Commerce review and approval, as provided by law.

PASSED by the City Council of Pacific this 14th day of April, 2014.



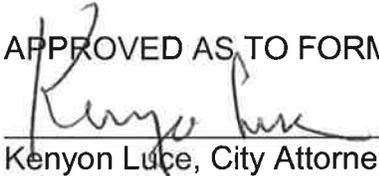
Leanne Guier, Mayor

AUTHENTICATED:



Amy Stevenson-Ness, City Clerk.

APPROVED AS TO FORM:



Kenyon Luce, City Attorney

PUBLISHED: April 18, 2014
EFFECTIVE DATE: April 23, 2014