

## CITY OF MEDICAL LAKE ORDINANCE NO. 1040

An ordinance of the City of Medical Lake, Washington adding Section 17.60 of the Medical Lake Municipal Code relating to Prohibiting all business uses involving marijuana, including production, processing and retail in the City of Medical Lake and providing for the effective date thereof.

WHEREAS, the Medical Lake City Council, pursuant to the provisions of Revised Code of Washington (RCW) Title 35A, has the responsibility to protect the public health, safety and welfare of its citizens; and

WHEREAS, Article XI, Section 11 of the Washington Constitution provides that “[a]ny county, city, town, or township may make and enforce within its limits all such local police, sanitary, and other regulations as are not in conflict with general laws”, which grants local governments jurisdiction over land use issues like zoning; and

WHEREAS, pursuant to the provisions of Chapter 36.63 RCW, the Medical Lake City Council has adopted the Medical Lake Zoning Code, Title 17 of the Medical Lake Municipal Code, for the incorporated area of the City of Medical Lake; and

WHEREAS, the voters of the State of Washington passed Initiative 502, now codified in RCW 69.50, which authorizes the licensing of marijuana production, processing and retail facilities; and

WHEREAS, under Initiative 502, the Washington State Liquor Control Board was charged with adopting rules and regulations covering marijuana production, processing and retail facilities and was given the responsibility for licensing of such facilities across the State; and

WHEREAS, the Liquor Control Board has not authorize any licenses for any marijuana businesses in the City of Medical Lake; and

WHEREAS, after appropriate notice, the Medical Lake Planning Commission held a public hearing to consider a recommendation to the Medical Lake City Council regarding appropriate zone wherein marijuana production, processing and retail facilities should be permitted in the City; and

WHEREAS, the Planning Commission, after consideration of all the information it received, including public testimony, recommended to the City Council that no business uses involving marijuana, including retail, production and/or processing be allowed in any zone designation within the City at this time; and

WHEREAS, the Medical Lake City Council has considered all testimony received, the provisions of RCW 69.50, the rules and regulations promulgated by the Washington State Liquor Control Board, and the recommendation of the Planning Commission in light of its responsibility to protect the public health, safety and welfare of its citizens;

WHEREAS, the City Council finds that it would not be in the best interest of the City of Medical Lake to allow any business uses involving marijuana, including retail, production, and/or processing within any zoning designation within the City at this time; and

WHEREAS, the City Council finds that this ordinance will promote the public health, safety, morals, and general welfare and is consistent with the goals and policies of the Comprehensive Plan; and

WHEREAS, the City Council recognizes this is a dynamic issue that will have more data developed as time progresses, now therefore

THE CITY COUNCIL OF THE CITY OF MEDICAL LAKE DO ORDAIN:

SECTION 1. There is hereby added to the Medical Lake Municipal Code Chapter 17.60 Marijuana Production, Process and Retail Establishments.

SECTION 2. There is hereby added to the Medical Lake Municipal Code Section 17.60.010 Definitions to read as follows: Section 17.60.010 Definitions. The definitions in this section shall apply to the terms used in this chapter.

- (1) "Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 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 plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, cake, or the sterilized seed of the plant which is incapable of germination.
- (2) "Marijuana concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant Cannabis and having a THC concentration greater than sixty percent (60%). The term "marijuana concentrates" does not include useable marijuana or marijuana infused products.
- (3) "Marijuana processing" means a business, licensed by the Washington State Liquor Control board, processing marijuana into useable marijuana and/or marijuana-infused products, and/or packaging and labeling useable marijuana and/or marijuana-infused products for sale in retail outlets, and/or selling useable marijuana and/or marijuana-infused products at wholesale to marijuana retailers.
- (4) "Marijuana producing" means a business, licensed by the Washington State Liquor Control Board, producing and/or selling marijuana at wholesale to marijuana processors and other marijuana producers.
- (5) "Marijuana-infused products" means products that contain marijuana or marijuana extracts, are intended for human use, and have a THC concentration greater than 0.3 percent and no greater than sixty percent (60%). The term "marijuana-infused products" does not include useable marijuana or marijuana concentrates.
- (6) "Marijuana retailing or marijuana retailer" means a business, licensed by the Washington State Liquor Control Board, selling useable marijuana, marijuana concentrates, and/or marijuana-infused products in a retail outlet.
- (7) "Marijuana, useable" (or "useable marijuana") means dried marijuana flowers. The term "marijuana, useable" does not include either marijuana concentrates or marijuana-infused products.
- (8) "Prohibited use" means any use of land or a building upon the land in a particular zoning classification that is: 1) listed as a prohibited use for that zoning classification; or 2) is not a use qualifying as a conditional use, either by listing or administrative interpretation, and is not otherwise listed as a permitted use or an accessory use in the particular zoning classification.

SECTION 2. There is hereby added to the Medical Lake Municipal Code Section 17.60.020 Prohibited Uses to read as follows: 17.60.020 Prohibited Uses. The following are prohibited uses in any zoning district within the City of Medical Lake:

- 1) Marijuana producing;
- 2) Marijuana processing;
- 3) Marijuana retailing or marijuana retailers.

SECTION 3. The City Administrator is directed to report to the City Council at such time as statistically significant data on impacts upon jurisdictions which have legalized marijuana production, processing and/or retailing has been established and/or when significant legal developments have occurred.

SECTION 4. SEVERABILITY. Each and every provision of this Ordinance shall be deemed severable. If any provision of this Ordinance should be deemed to be unconstitutional or otherwise contrary to law by a court of competent jurisdiction, then it shall not affect the validity of the remaining sections so long as the intent of the Ordinance can be fulfilled without the illegal section.

SECTION 5. Effective Date. This ordinance shall be full force an effect five (5) days from and after passage, approval and publication.

INTRODUCED this 18<sup>th</sup> day of November, 2014.

PASSED this 2<sup>nd</sup> day of December, 2014.

  
MAYOR JOHN HIGGINS

ATTEST:

  
JENNIFER HOUGH, Finance Director

APPROVED AS TO FORM:

  
CYNTHIA E. MCMULLEN, City Attorney