

POULSBO DISTRIBUTION SCHEDULE

ORDINANCE NO. 2013-10

SUBJECT: Interim Zoning Regulations Relating to Marijuana (Six Months) and Setting a Public Hearing for September 11, 2013

CONFORM AS TO DATES & SIGNATURES

- (X) Filed with the City Clerk: 08/14/2013
- (X) Passed by the City Council: 08/14/2013
- (X) Signature of Mayor
- (X) Signature of City Clerk
- (X) Publication: 08/23/2013
- (X) Effective: 08/14/2013 (*Declared Emergency*)
- () Recorded: N/A

DISTRIBUTED COPIES AS FOLLOWS:

- (X) NK Herald: Emailed by jb
- (X) Code Publishing
- () City Attorney
- () Civil Service Commission and/or Sec/Chief Examiner
- () Clerk's Department:
- () City Council
- () Finance:
- (X) Posted to Library Drive and Website
- (X) Washington State Department of Commerce (*distributed by Planning Dept.*)

Jill A. Boltz
City Clerk

August 26, 2013
Date

ORDINANCE NO. 2013-10

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, ADOPTING INTERIM ZONING REGULATIONS RELATING TO MARIJUANA RELATED USES FOR A PERIOD OF SIX MONTHS; SETTING A PUBLIC HEARING FOR SEPTEMBER 11, 2013, IN ORDER TO TAKE PUBLIC TESTIMONY REGARDING THE INTERIM ZONING REGULATIONS; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, recent amendments to Chapter 69.51A RCW, relating to the medical use of cannabis, have expanded the scope of certain activities involving the use of cannabis for medical purposes that are permitted under state law; and

WHEREAS, RCW 69.51A.085 allows "qualifying patients" to create and participate in "collective gardens" for the purpose of producing, processing, transporting, and delivering cannabis for medical use, subject to certain conditions; and

WHEREAS, RCW 69.51A.140 delegates authority to cities and towns to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements, and business taxes as exercise of the City's police power; and

WHEREAS, the City Council understands that while the medical benefits of cannabis have been recognized by the state legislature, cannabis, also known as marijuana, remains a Schedule I controlled substance under the federal Controlled Substances Act (CSA), and possession and use of cannabis is still a violation of federal law; and

WHEREAS, in 2012 Washington voters approved Initiative 502 which authorizes certain production, processing and retailing of marijuana and directs the State Liquor Control Board to develop rules and regulations to:

1. Determine the number of producers, processors and retailers of marijuana by county;
2. Develop licensing and other regulatory measures;
3. Issue licenses to producers, processors, and retailers at locations which comply with the Initiative's distancing requirements prohibiting such uses within one thousand feet of schools and other designated public facilities; and
4. Establish a process for municipalities to comment prior to the issuance of such licenses; and

WHEREAS, while the production, processing, and retailing of marijuana remains in violation of the federal CSA, the City Council wishes to acknowledge the will of Washington voters and the authority exercised by the state of Washington and the State Liquor Control Board to license such facilities; and

WHEREAS, as part of the process for the adoption of zoning regulations, the land use impacts of collective gardens and marijuana related uses must be identified; and

WHEREAS, because the land use impacts relating to marijuana have been experienced in other jurisdictions, the City of Poulsbo may look to the experiences of those jurisdictions in drafting zoning regulations for marijuana related uses; and

WHEREAS, many jurisdictions around the country that have approved medical marijuana uses have experienced impacts, such as:

- Conversion of residential uses into cannabis cultivation and processing facilities, removing valuable housing stock from the community;
- Degrading neighborhood aesthetics due to shuttered up homes, offensive odors, increased night-time traffic, parking issued, and loitering from potential purchasers looking to buy from a collective member;
- Environmental damages from chemicals being discharged into surrounding and off-site soil, and into storm and sanitary sewer systems;
- Serious risk of fire hazard do to overloaded service connections used to operate grow lights and fans;
- Improper ventilation leading to high levels of moisture and mold;
- Illegal structural modifications; and
- Criminal issues such as home invasions and burglaries at medical cannabis facilities, theft, and property damage; and

WHEREAS, if interim zoning regulations are not adopted, marijuana related uses could become established before the City adopts the necessary tools to ensure that the location is appropriate and that the secondary impacts of such facilities are minimized and mitigated; and

WHEREAS, the Poulsbo City Council deems it to be in the public interest to adopt interim zoning regulations related to the location, establishment, licensing, and permitting of marijuana producers, processors, and retailers and collective gardens, so that the City can consider all of the land use impacts of theses uses; and

WHEREAS, RCW 35A.63.220 and RCW 26.70A.390 provide that interim zoning regulations may be adopted as long as a public hearing is held within sixty days after adoption; and

WHEREAS, the Poulsbo City Council will hold a public hearing as required; 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 POULSBO, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Purpose. The purpose of this ordinance is to enact minimum zoning regulations relating to collective gardens and marijuana producers, marijuana processors and marijuana retailers and to provide notice to those intending to operate and participate in such uses that the City is considering additional and more comprehensive zoning regulations on the subject.

Section 2. Preliminary Findings. The Poulsbo City Council hereby adopts the recitals set forth above as its preliminary findings in support of this ordinance. The Poulsbo City Council may, in its discretion, adopt additional findings at the conclusion of the public hearing referenced in Section 6 below.

Section 3. Definitions. Unless the context clearly indicates otherwise, all terms used in this ordinance shall have the meanings established pursuant to RCW 69.50.101 and WAC 314-55-010, as the same existing now or as they may later be amended.

Section 4. Interim Zoning Regulations.

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 Poulsbo is an authorization to circumvent federal law or to provide permission to any person or entity to violate federal law. In addition to collective gardens, only Washington State licensed marijuana producers, marijuana processors, and marijuana retailers may locate in the City of Poulsbo and then only pursuant to a license issued by the State of Washington. The purposes of these provisions is solely to acknowledge the authority for collective gardens set forth in RCW 69.51A.085 and enactment by Washington voters of Initiative 502 and state licensing procedures to permit, but only to the extent required by state law, collective gardens, marijuana producers, marijuana processors, and marijuana retailers to operate in designated zones of the city.

B. Collective gardens may locate only in the Light Industrial (LI) zoning district. Collective gardens are subject to the following additional conditions:

1. A collective garden must be in a permanent structure designed to comply with the City Building Code and constructed under a building permit from the City regardless of the size or configuration of the structure.
2. Outdoor collective gardens are prohibited.

3. No production, processing, or delivery of cannabis may be visible to the public.

4. A collective garden must meet all requirements under RCW 69.51A.085, including but not limited to limitations on the number of members, number of plants, amount of useable cannabis on site, maintenance of each member's valid documentation of qualifying patient status.

5. In addition to the separation requirements in Section 4(D) below, no collective garden may be located within 500 feet of the perimeter of any existing collective garden, marijuana producer, marijuana processor, marijuana retailer or residential zoning district.

C. Marijuana producers, marijuana processors and marijuana retailers may locate only in the Light Industrial (LI) zoning district. Such facilities and uses may be located only at designated sites licensed by the state of Washington and fully conforming to state law and this ordinance.

D. No collective garden, marijuana processor, marijuana producer, or marijuana retailer shall locate within 1000 feet, measured from the exterior perimeter, from any of the following existing uses as defined in Section 3 above:

1. Elementary or secondary school;
2. Playground;
3. Recreation center or facility;
4. Childcare center;
5. Public park;
6. Public transit center;
7. Library; or
8. Game arcade.

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 1.16 PMC, Chapter 9.50 PMC, and Chapter 18.320 PMC.

Section 5. Effective Period for Interim Regulations. The interim regulations set forth in this ordinance shall be in effect for a period of six months from the date this ordinance is passed and shall automatically expire on that date unless the same is extended as provided in RCW 35A.63.220 and RCW 36.70A.390, or unless terminated sooner by the Poulsbo City Council.

Section 6. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the Poulsbo City Council hereby sets a public hearing for September 11,

2013 at 7:15 p.m. or as soon thereafter as the business of the City Council shall permit in order to take public testimony and to consider adopting further findings justifying the imposition of the interim regulations set forth in Section 4 above.

Section 7. Transmittal to Department. Pursuant to RCW 36.70A.106, this ordinance shall be transmitted to the Washington State Department of Commerce.

Section 8. 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 of any other section, sentence, clause or phrase of this ordinance.

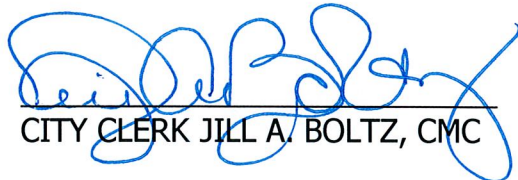
Section 9. Effective Date. For the reasons set forth in the recitals of this ordinance, the Poulsbo City Council hereby finds and declares that an emergency exists which necessitates that this ordinance become effective immediately in order to preserve the public health, safety and welfare. This ordinance shall become effective immediately upon passage. The Poulsbo City Clerk is directed to publish the attached summary of this ordinance at the earliest possible date.

APPROVED:



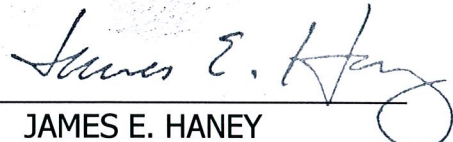
MAYOR/REBECCA ERICKSON

ATTEST/AUTHENTICATED:



CITY CLERK JILL A. BOLTZ, CMC

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 

JAMES E. HANEY

FILED WITH THE CITY CLERK: 08/14/2013
PASSED BY THE CITY COUNCIL: 08/14/2013
PUBLISHED: 08/23/2013
EFFECTIVE DATE: 08/14/2013
ORDINANCE NO. 2013-10

SUMMARY OF ORDINANCE NO. 2013-10

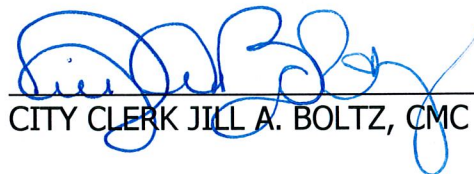
of the City of Poulsbo, Washington

On the 14th day of August, 2013, the City Council of the City of Poulsbo, passed Ordinance No. 2013-10. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, ADOPTING INTERIM ZONING REGULATIONS RELATING TO MARIJUANA RELATED USES FOR A PERIOD OF SIX MONTHS; SETTING A PUBLIC HEARING FOR SEPTEMBER 11, 2013, IN ORDER TO TAKE PUBLIC TESTIMONY REGARDING THE INTERIM ZONING REGULATIONS; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.

DATED this 20th day of August, 2013.



CITY CLERK JILL A. BOLTZ, CMC