

Adopted: 3/4/15
Effective: 4/2/15

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

ORDINANCE NO. 15-012

EXTENDING AN INTERIM OFFICIAL CONTROL ENACTED BY EMERGENCY
ORDINANCE NO. 14-086 FOR AN ADDITIONAL SIX-MONTH PERIOD,
REGULATING MARIJUANA BUSINESSES LICENSED UNDER I-502,
AND AMENDING EMERGENCY ORDINANCE NO. 14-086

WHEREAS, Initiative 502 was passed by the voters of the State of Washington in November 2012, providing a framework under which marijuana producers, processors, and retailers can become licensed by the State of Washington; and

WHEREAS, the Washington State Liquor Control Board is in the process of reviewing and issuing licenses for marijuana businesses; and

WHEREAS, Article XI, Section 11 of the Washington Constitution provides that any county 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 counties jurisdiction over land use issues like zoning; and

WHEREAS, without additional regulations and review processes, new marijuana businesses may open in areas where they are incompatible with surrounding uses; and

WHEREAS, by Motion No. 14-318, the Snohomish County Council referred proposed legislation to the Department of Planning and Development Services and to the Planning Commission in order to consider regulations to reduce the potential incompatibility of marijuana businesses in certain rural zones; and

WHEREAS, the Snohomish County Council wishes to reduce the risk of new businesses opening where they are incompatible with surrounding uses during the period of time necessary for consideration of the new regulations; and

WHEREAS, RCW 36.70A.390 provides that the Snohomish County Council may adopt a moratorium, interim zoning ordinance, interim zoning map, and/or interim official control; and

WHEREAS, moratoria, interim zoning ordinances, and interim official controls enacted under RCW 36.70A.390 are methods by which local governments may preserve the status quo so that new regulations will not be rendered moot by intervening development; and

WHEREAS, RCW 36.70A.390 provides that a moratorium or interim zoning control may be effective for not longer than six months, but may be renewed for one or

1 more six-month periods if a subsequent public hearing is held and findings of fact are
2 made prior to each renewal; and
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4 WHEREAS, additional time is required for the Snohomish County Council to
5 consider and take action on the Planning Commission recommendation; and
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7 WHEREAS, the provisions of Emergency Ordinance No. 14-086 will expire on
8 April 1, 2015, before new permanent regulations can be adopted, unless action is taken
9 to extend those provisions prior to that date;

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11 NOW, THEREFORE, BE IT ORDAINED:
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13 Section 1. The Snohomish County Council makes the following findings and
14 conclusions:
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16 A. The Snohomish County Council adopts and incorporates the foregoing recitals as
17 findings as if set forth fully herein.
18

19 B. The Snohomish County Council readopts the following findings from Emergency
20 Ordinance 14-086:
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- 22 1. The potential siting of marijuana production and processing facilities in the Rural
23 5-acre (R-5) zone has generated significant citizen concerns about the
24 compatibility of such facilities with the existing rural character of the area.
25
- 26 2. The number of medical marijuana collective gardens in the Clearview area has
27 increased recently to a level that has generated significant citizen concerns about
28 the impact that so many marijuana businesses can have on a community. Any
29 further increase in the concentration of marijuana businesses, including licensed
30 retailers, in that area would exacerbate the problem.
31
- 32 3. The interim zoning regulations in SCC 30.22.110 will prohibit new marijuana
33 producers and processors licensed by the State of Washington under Initiative
34 502 from locating in the R-5 zone while regulations to promote compatibility are
35 considered.
36
- 37 4. The interim zoning regulations in SCC 30.22.110 will prohibit new marijuana
38 retail licensed by the State of Washington under Initiative 502 from locating in the
39 Clearview Rural Commercial (CRC) zone while regulations to promote
40 compatibility are considered.
41
- 42 5. It is in the best interest of Snohomish County to prohibit new marijuana
43 producers and processors from locating in the Rural-5 zone at this time, and to
44 prohibit new marijuana retailers from locating in the CRC zone at this time,
45 pending further study and public engagement on potential long-term regulatory
46 changes.

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6. The proposed interim official control will promote the public health, safety, morals, and general welfare, and it is consistent with the goals and policies of the Comprehensive Plan.

7. Marijuana is illegal under federal law. State and local regulations do not preempt federal law. People and businesses involved in the production, processing, sales, and possession of marijuana could still be subject to prosecution under federal law. Local zoning and other regulations are not a defense against a violation of federal law. The United States Department of Justice in a letter to the Commissioners of Clark County, Washington dated January 17, 2012, stated that "Congress has determined that marijuana is a schedule I controlled substance and, as such, growing, distributing, and possessing marijuana in any capacity, other than as part of a federally authorized research program, is a violation of federal law regardless of state laws permitting such activities."

C. The Snohomish County Council adopts the following additional findings in support of extension of the interim official control for an additional six-month period.

1. On November 18, 2014, in response to Motion No. 14-318 and following adoption of Amended Emergency Ordinance 14-086, the Snohomish County Planning Commission received an informational briefing on options for regulating marijuana-related businesses.

2. On December 16, 2014, and continued to December 17, 2014, the Snohomish County Planning Commission held a hearing and deliberated on options for regulating marijuana-related businesses.

3. On January 21, 2015, the Snohomish County Council received recommendations from the Snohomish County Planning Commission and the Snohomish County Executive regarding the regulation of marijuana-related businesses.

4. The Snohomish County Planning Commission provided policy recommendations for marijuana-related business regulations, but did not recommend approval of the draft ordinance referred to it by Motion No. 14-318 and did not provide an alternative ordinance with regulatory language in a form that could be adopted by the Snohomish County Council.

5. The Snohomish County Executive provided a set of policy recommendations for marijuana-related business regulations that differed from the Planning Commission recommendation and from the draft ordinance referred to it by Motion No. 14-318 and did not provide an alternative ordinance with regulatory language in a form that could be adopted by the Snohomish County Council.

- 1 6. On February 9, 2015, the Snohomish County Council discussed the
2 recommendations of the Snohomish County Planning Commission and the
3 Snohomish County Executive.
4
5 7. Snohomish County has made steady and continuous progress toward adopting
6 permanent regulations to replace the interim official control adopted by Amended
7 Emergency Ordinance 14-086.
8
9 8. Additional time is required for the Snohomish County Council to complete its
10 processing and consideration of the recommendations of the Snohomish County
11 Planning Commission and the Snohomish County Executive.
12
13 9. During this additional time until permanent regulations can be adopted, the
14 Snohomish County Council finds that it is still in the best interest of Snohomish
15 County to continue to prohibit new marijuana producers and processors from
16 locating in the Rural-5 zone, and to continue to prohibit new marijuana retailers
17 from locating in the CRC zone.
18

19 D. This ordinance satisfies the procedural and substantive requirements of and is
20 consistent with the GMA.
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22 E. State Environmental Policy Act (SEPA) requirements with respect to this non-project
23 action have been satisfied through the completion of an environmental checklist and
24 the issuance of a determination of non-significance on February 18, 2015.
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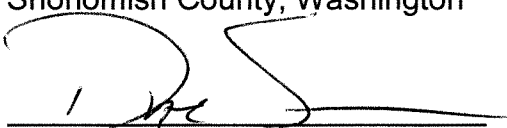
26 Section 2. Section 4 of Emergency Ordinance No. 14-086, adopted on October
27 1, 2014, is amended to read:
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29 Expiration. The interim zoning regulations in section 3 of this ordinance shall
30 automatically expire and be deemed to have been repealed six months from ~~the date of~~
31 ~~adoption~~ [the effective date of Ordinance No. 15-012], unless renewed or otherwise
32 extended prior to such date in accordance with RCW 36.70A.390.
33

34 Section 3. Renewal. In accordance with RCW 36.70A.390, this ordinance may
35 be renewed for one or more six-month periods if a subsequent public hearing is held
36 and findings of fact are made prior to each renewal.
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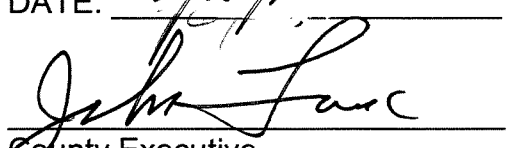
1 Section 4. Severability. If any section, sentence, clause or phrase of this
2 ordinance shall be held to be invalid or unconstitutional by the Growth Management
3 Hearings Board, or a court of competent jurisdiction, such invalidity or unconstitutionality
4 shall not affect the validity or constitutionality of any other section, sentence, clause or
5 phrase of this ordinance. Provided, however, that if any section, sentence, clause or
6 phrase of this ordinance is held to be invalid by the Board or court of competent
7 jurisdiction, then the section, sentence, clause or phrase in effect prior to the effective
8 date of this ordinance shall be in full force and effect for that individual section,
9 sentence, clause or phrase as if this ordinance had never been adopted.

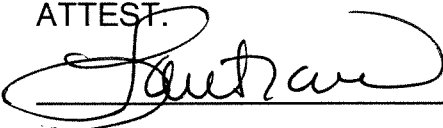
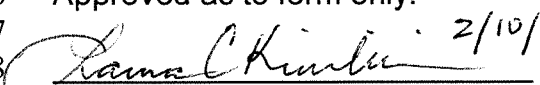
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11
12 PASSED this 4th day of MARCH, 2015.

13 SNOHOMISH COUNTY COUNCIL
14 Snohomish County, Washington
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19 
20 Council Chair

21 ATTEST:
22 
23 _____
24 Clerk of the Council

25
26 APPROVED
27 EMERGENCY
28 VETOED
29

30 DATE: 3/23/15
31 
32 _____
33 County Executive

34 ATTEST.
35 
36 _____
37 Approved as to form only:
38  2/10/15
39 Deputy Prosecuting Attorney

D-15