

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

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

ORDINANCE NO. 15-013

EXTENDING AN INTERIM OFFICIAL CONTROL ENACTED BY EMERGENCY
ORDINANCE NO. 14-087 FOR AN ADDITIONAL SIX-MONTH PERIOD,
REGULATING MEDICAL MARIJUANA COLLECTIVE GARDENS, COLLECTIVE
GARDEN DISPENSARIES AND ACCESS POINTS, AND AMENDING EMERGENCY
ORDINANCE NO. 14-087

WHEREAS, chapter 69.51A RCW provides that qualifying patients or their designated care providers may create and participate in collective gardens to produce, process, transport, and deliver cannabis for medical use; and

WHEREAS, under chapter 69.51A RCW, there is no limit to the number of collective gardens, collective garden dispensaries and access points that can be located in an area, nor restrictions as to where collective gardens, collective garden dispensaries and access points may be located in relation to other uses; and

WHEREAS, RCW 69.51A.140 authorizes counties to adopt and enforce zoning regulations, business licensing requirements, and health and safety requirements pertaining to the production, processing, or dispensing of cannabis or cannabis products within unincorporated areas of the county; 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 collective gardens 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

1 WHEREAS, moratoria, interim zoning ordinances, and interim official controls
2 enacted under RCW 36.70A.390 are methods by which local governments may
3 preserve the status quo so that new regulations will not be rendered moot by
4 intervening development; and
5

6 WHEREAS, RCW 36.70A.390 provides that a moratorium or interim zoning
7 control may be effective for not longer than six months, but may be renewed for one or
8 more six-month periods if a subsequent public hearing is held and findings of fact are
9 made prior to each renewal; and
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11 WHEREAS, additional time is required for the Snohomish County Council to
12 consider and take action on the Planning Commission recommendation; and
13

14 WHEREAS, the provisions of Emergency Ordinance No. 14-087 will expire on
15 March 29, 2015, before new permanent regulations can be adopted, unless action is
16 taken to extend those provisions prior to that date;
17

18 NOW, THEREFORE, BE IT ORDAINED:
19

20 Section 1. The Snohomish County Council makes the following findings and
21 conclusions:
22

23 A. The Snohomish County Council adopts and incorporates the foregoing recitals as
24 findings as if set forth fully herein.
25

26 B. The Snohomish County Council readopts the following findings from Emergency
27 Ordinance 14-087:
28

29 1. The number of collective gardens in the Clearview area has increased recently to
30 a level that has generated significant citizen concerns about the impact that so
31 many marijuana businesses can have on a community. Any further increase in
32 the concentration of marijuana businesses, including collective gardens,
33 collective garden dispensaries, and access points, in that area would exacerbate
34 the problem.
35

36 2. The interim zoning regulations in SCC 30.22.110 will prohibit new medical
37 marijuana collective gardens, collective garden dispensaries and access points
38 from locating in the Clearview Rural Commercial (CRC) zone while regulations to
39 promote compatibility are considered.
40

41 3. It is in the best interest of Snohomish County to prohibit new collective gardens,
42 collective garden dispensaries and access points from locating in the CRC zone
43 at this time, pending further study and public engagement on potential long-term
44 regulatory changes.
45

1 4. The proposed interim official control will promote the public health, safety,
2 morals, and general welfare, and it is consistent with the goals and policies of the
3 Comprehensive Plan.
4

5 5. Marijuana is illegal under federal law. State and local regulations do not preempt
6 federal law. People and businesses involved in the production, processing,
7 sales, and possession of marijuana could still be subject to prosecution under
8 federal law. Local zoning and other regulations are not a defense against a
9 violation of federal law. The United States Department of Justice in a letter to the
10 Commissioners of Clark County, Washington dated January 17, 2012, stated that
11 "Congress has determined that marijuana is a schedule I controlled substance
12 and, as such, growing, distributing, and possessing marijuana in any capacity,
13 other than as part of a federally authorized research program, is a violation of
14 federal law regardless of state laws permitting such activities."
15

16 C. The Snohomish County Council adopts the following additional findings in support of
17 extension of the interim official control for an additional six-month period.
18

19 1. On November 18, 2014, in response to Motion No. 14-318 and following adoption
20 of Amended Emergency Ordinance 14-087, the Snohomish County Planning
21 Commission received an informational briefing on options for regulating
22 marijuana-related businesses.
23

24 2. On December 16, 2014, and continued to December 17, 2014, the Snohomish
25 County Planning Commission held a hearing and deliberated on options for
26 regulating marijuana-related businesses.
27

28 3. On January 21, 2015, the Snohomish County Council received recommendations
29 from the Snohomish County Planning Commission and the Snohomish County
30 Executive regarding the regulation of marijuana-related businesses.
31

32 4. The Snohomish County Planning Commission provided policy recommendations
33 for marijuana-related business regulations, but did not recommend approval of
34 the draft ordinance referred to it by Motion No. 14-318 and did not provide an
35 alternative ordinance with regulatory language in a form that could be adopted by
36 the Snohomish County Council.
37

38 5. The Snohomish County Executive provided a set of policy recommendations for
39 marijuana-related business regulations that differed from the Planning
40 Commission recommendation and from the draft ordinance referred to it by
41 Motion No. 14-318 and did not provide an alternative ordinance with regulatory
42 language in a form that could be adopted by the Snohomish County Council.
43

44 6. On February 9, 2015, the Snohomish County Council discussed the
45 recommendations of the Snohomish County Planning Commission and the
46 Snohomish County Executive.

- 1
2 7. Snohomish County has made steady and continuous progress toward adopting
3 permanent regulations to replace the interim official control adopted by Amended
4 Emergency Ordinance 14-087.
5
6 8. Additional time is required for the Snohomish County Council to complete its
7 processing and consideration of the recommendations of the Snohomish County
8 Planning Commission and the Snohomish County Executive.
9
10 9. During this additional time until permanent regulations can be adopted, the
11 Snohomish County Council finds that it is still in the best interest of Snohomish
12 County to prohibit new collective gardens, collective garden dispensaries and
13 access points from locating in the CRC zone.
14
15 D. This ordinance satisfies the procedural and substantive requirements of and is
16 consistent with the GMA.
17
18 E. State Environmental Policy Act (SEPA) requirements with respect to this non-project
19 action have been satisfied through the completion of an environmental checklist and
20 the issuance of a determination of non-significance on February 18, 2015.

21
22 Section 2. Section 4 of Emergency Ordinance No. 14-087, adopted on
23 September 29, 2014, is amended to read:

24
25 Expiration. The interim zoning regulations in section 3 of this ordinance shall
26 automatically expire and be deemed to have been repealed six months from ~~the date of~~
27 adoption [the effective date of Ordinance No. 15-013], unless renewed or otherwise
28 extended prior to such date in accordance with RCW 36.70A.390.
29

30 Section 3. Renewal. In accordance with RCW 36.70A.390, this ordinance may
31 be renewed for one or more six-month periods if a subsequent public hearing is held
32 and findings of fact are made prior to each renewal.
33


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.

10
11
12 PASSED this 4th day of MARCH, 2015.

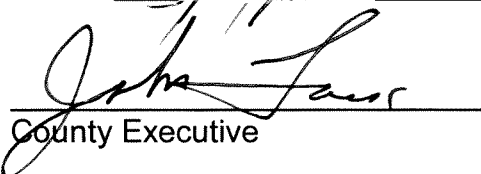
13
14 SNOHOMISH COUNTY COUNCIL
15 Snohomish County, Washington

16
17 
18 _____
19 Council Chair

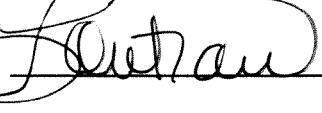
20 ATTEST:

21 
22 _____
23 Clerk of the Council

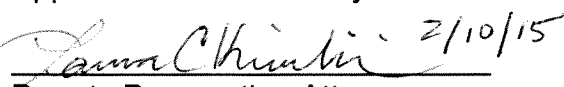
24
25
26 APPROVED
27 EMERGENCY
28 VETOED

29
30 DATE: 3/23/15
31 
32 _____
33 County Executive

34 ATTEST:

35 
36 _____

37 Approved as to form only:

38 
39 _____
Deputy Prosecuting Attorney

D-16