

ORDINANCE NO. 1872

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON AMENDING FIFE MUNICIPAL CODE CHAPTER 19.06 TO ADD NINE NEW DEFINITIONS AND RENUMBER EXISTING SECTIONS WITHIN THAT CHAPTER AND ADDING SECTIONS 19.14.045, 19.20.045, 19.24.045, 19.28.045, 19.32.045, 19.36.045, 19.40.045, 19.42.045, 19.44.045, 19.46.045, 19.48.045, 19.50.045 PROHIBITING ALL BUSINESS USES INVOLVING MARIJUANA, INCLUDING RETAIL, PRODUCTION, AND PROCESSING, AND PROHIBITING MEDICAL MARIJUANA COLLECTIVE GARDENS IN THE CITY

WHEREAS, on August 13, 2013 the City of Fife City Council passed Ordinance No. 1841 imposing a one year moratorium on the establishment, location, permitting, licensing or operation of medical marijuana collective gardens and marijuana production, processing and retailing; and

WHEREAS, in 2011, the state legislature passed Engrossed Second Substitute Senate Bill (E2SSB) 5073, codified in RCW Chapter 69.51A, which authorizes qualifying patients to create and participate in “collective gardens” for the purpose of producing, processing, transporting, and delivering marijuana for medical use, subject to certain conditions contained therein; and

WHEREAS, RCW 69.51A.170 authorizes cities to adopt and enforce zoning regulations, business licensing requirements, health and safety requirements, and business taxes pertaining to the production, processing, or dispensing of marijuana within their jurisdictions; and

WHEREAS, in November 2012, Washington State voters approved Initiative 502 (I-502), codified in RCW Chapter 69.50, which “authorizes the Washington State Liquor Control Board to regulate and tax marijuana for persons twenty-one years of age and older,” and license marijuana producers, processors, and retailers; 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, Ordinance No. 1841 includes a one year work program for the City’s development of regulations for marijuana related land uses; and

WHEREAS, the City having completed its one year work program; and

WHEREAS, the City Council finds it would not be in the best interest of the City of Fife 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 also finds it would not be in the best interest of the City of Fife to allow medical marijuana collective gardens within any zoning designation with the City at this time; and

WHEREAS, the City Council finds the proposed amendments 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 FIFE, WASHINGTON DO ORDAIN

Section 1. Fife Municipal Code Chapter 19.06 entitled “Definitions”, is hereby amended to add new sections and amend existing sections as follows,

**19.06.471 Marijuana or marihuana**

"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, or cake, or the sterilized seed of the plant which is incapable of germination.

**19.06.472 Marijuana concentrates**

"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 (60) percent. The term "marijuana concentrates" does not include useable marijuana or marijuana infused products.

**19.06.473 Marijuana processing**

"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 marijuana-infused products at wholesale to marijuana retailers.

**19.06.474 Marijuana producing**

"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.

**19.06.475 Marijuana-infused products**

"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 (60) percent. The term "marijuana-infused products" does not include useable marijuana or marijuana concentrates.

**19.06.476 Marijuana retailing or Marijuana retailer**

"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.

**19.06.477 Marijuana, useable**

"Marijuana, useable" (or "useable marijuana") means dried marijuana flowers. The term "Marijuana, useable" does not include either marijuana concentrates or marijuana-infused products.

**19.06.475-8 Medical or dental clinic.**

"Medical or dental clinic" means a building or complex occupied and used by physicians and dentists and other medical practitioners recognized by the state of Washington, for outpatients only; and including accessory uses including, but not limited to, therapeutic room and x-ray room, medical and dental laboratories, the dispensing of medicine and medical aides to outpatients of the clinic.

**19.06.479 Medical marijuana collective garden**

"Medical marijuana collective garden" shall mean the growing of medical cannabis by qualifying patients as provided in Chapter 69.51A RCW, now or hereafter amended, and subject to the provisions of this section. A collective garden may also include ancillary processing and distribution of medical cannabis to support the collective garden. Medical marijuana collective gardens are a prohibited land use in the City. In addition, a location used solely for processing or distributing medical cannabis, or not meeting the requirements of this section, shall not be considered a collective garden and is also prohibited.

**19.06.47980 Medium-speed electric vehicle.**

"Medium-speed electric vehicle" means a self-propelled, electrically powered four-wheeled motor vehicle, equipped with a roll cage or crush-proof body design, whose speed attainable in one mile is more than 25 miles per hour but not more than 35 miles per hour and otherwise meets or exceeds the federal regulations set forth in 49 C.F.R. Section 571.500. (Ord. 1780 § 2, 2012).

**19.06.4803 Metal products, nonprecious.**

“Nonprecious metal products” include ferrous, nonferrous or alloyed metals formed into bar stock sheets, tubes, wire and other extrusions. (Ord. 1317 § 3, 1998).

**19.06.637 Prohibited Use.**

“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. The Fife Municipal Code is hereby amended to add a new section 19.14.045 as follows:

**19.14.045 Prohibited Uses.**

The following are Prohibited Uses for the Single-Family Residential (SFR) District:

- A. Marijuana Producing.
- B. Marijuana Processing.
- C. Marijuana Retailing or Marijuana Retailers.
- D. Medical Marijuana Collective Gardens.

Section 3. The Fife Municipal Code is hereby amended to add a new section 19.20.045 as follows:

**19.20.045 Prohibited Uses.**

The following are Prohibited Uses for the Small Lot Residential (SLR) District:

- A. Marijuana Producing.
- B. Marijuana Processing.
- C. Marijuana Retailing or Marijuana Retailers.
- D. Medical Marijuana Collective Gardens.

Section 4. The Fife Municipal Code is hereby amended to add a new section 19.24.045 as follows:

**19.24.045 Prohibited Uses.**

The following are Prohibited Uses for the Medium Density Residential (MDR) District:

- A. Marijuana Producing.
- B. Marijuana Processing.
- C. Marijuana Retailing or Marijuana Retailers.
- D. Medical Marijuana Collective Gardens.

Section 5. The Fife Municipal Code is hereby amended to add a new section 19.28.045 as follows:

**19.28.045 Prohibited Uses.**

The following are Prohibited Uses for the High Density Residential (HDR) District:

- A. Marijuana Producing.
- B. Marijuana Processing.
- C. Marijuana Retailing or Marijuana Retailers.
- D. Medical Marijuana Collective Gardens.

Section 6. The Fife Municipal Code is hereby amended to add a new section 19.32.045 as follows:

**19.32.045 Prohibited Uses.**

The following are Prohibited Uses for the Neighborhood Residential (NR) District:

- A. Marijuana Producing.
- B. Marijuana Processing.
- C. Marijuana Retailing or Marijuana Retailers.

D. Medical Marijuana Collective Gardens.

Section 7. The Fife Municipal Code is hereby amended to add a new section 19.36.045 as follows:

**19.36.045 Prohibited Uses.**

The following are Prohibited Uses for the Neighborhood Commercial (NC) District:

- A. Marijuana Producing.
- B. Marijuana Processing.
- C. Marijuana Retailing or Marijuana Retailers.
- D. Medical Marijuana Collective Gardens.

Section 8. The Fife Municipal Code is hereby amended to add a new section 19.40.045 as follows:

**19.40.045 Prohibited Uses.**

The following are Prohibited Uses for the Community Commercial (CC) District:

- A. Marijuana Producing.
- B. Marijuana Processing.
- C. Marijuana Retailing or Marijuana Retailers.
- D. Medical Marijuana Collective Gardens.

Section 9. The Fife Municipal Code is hereby amended to add a new section 19.42.045 as follows:

**19.42.045 Prohibited Uses.**

The following are Prohibited Uses for the Community Mixed Use (CMU) District:

- A. Marijuana Producing.
- B. Marijuana Processing.

C. Marijuana Retailing or Marijuana Retailers.

D. Medical Marijuana Collective Gardens.

Section 10. The Fife Municipal Code is hereby amended to add a new section 19.44.045 as follows:

**19.44.045 Prohibited Uses.**

The following are Prohibited Uses for the Regional Commercial (RC) District:

A. Marijuana Producing.

B. Marijuana Processing.

C. Marijuana Retailing or Marijuana Retailers.

D. Medical Marijuana Collective Gardens.

Section 11. The Fife Municipal Code is hereby amended to add a new section 19.46.045 as follows:

**19.46.045 Prohibited Uses.**

The following are Prohibited Uses for the Business Park (BP) District:

A. Marijuana Producing.

B. Marijuana Processing.

C. Marijuana Retailing or Marijuana Retailers.

D. Medical Marijuana Collective Gardens.

Section 12. The Fife Municipal Code is hereby amended to add a new section 19.48.045 as follows:

**19.48.045 Prohibited Uses.**

The following are Prohibited Uses for the Industrial (I) District:

A. Marijuana Producing.

- B. Marijuana Processing.
- C. Marijuana Retailing or Marijuana Retailers.
- D. Medical Marijuana Collective Gardens.

Section 13. The Fife Municipal Code is hereby amended to add a new section 19.50.045 as follows:

**19.50.045 Prohibited Uses.**

The following are Prohibited Uses for the Public Use/Open Space District:

- A. Marijuana Producing.
- B. Marijuana Processing.
- C. Marijuana Retailing or Marijuana Retailers.
- D. Medical Marijuana Collective Gardens.

Section 14. The City Council directs the City Manager to report back to the Council at such time as statistically significant data on impacts upon jurisdictions who have legalized marijuana production, processing, and retailing has been established and/or when significant legal changes have occurred.

Section 15. Ordinance Publication and Effective Date. This Ordinance shall be in full force and effect five (5) days after publication as required by law. A summary of this Ordinance may be published in lieu of the entire Ordinance, as authorized by State law.

Section 16. 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.

Introduced the 24<sup>th</sup> day of June, 2014.

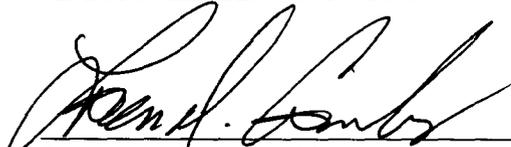
Passed by the City Council on the 8<sup>th</sup> day of July, 2014.

  
David K. Zabel, City Manager

ATTEST:

  
Carol Etgen, City Clerk

APPROVED AS TO FORM:

  
Loren D. Combs, City Attorney

Published: July 10, 2014

Effective Date: July 15, 2014