

ORDINANCE NO. 1285

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING; ADOPTING INTERIM ZONING REGULATIONS RELATING TO THE SEPARATION OF MARIJUANA-RELATED RETAIL USES; AMENDING SECTION 17.63.030(F) OF THE GIG HARBOR MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

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, in response and after a public hearing the Gig Harbor City Council approved Ordinance No. 1271 on September 23, 2013, adopting permanent regulations relating to marijuana uses; and

WHEREAS, under Initiative 502, the Washington State Liquor Control Board was tasked with the responsibility to adopt the rules governing the licensing and operations of marijuana producers, processors, and retailers, and the Board adopted such rules at chapter 314-55 of the Washington Administrative Code, effective November 21, 2013; and

WHEREAS, WAC 314-55-081 authorized the Liquor Control Board to determine the maximum number of marijuana retail locations per county and within cities with higher populations, with the intent of distributing that number proportionate to the most populous cities within each county. This included an "at large" number for locations in unincorporated areas in the county or in small cities within the county that have no designated number of retail licenses; and

WHEREAS, due to the relatively small population in the City of Gig Harbor, the Liquor Control Board did not designate a number of retail licenses that could be approved in the City of Gig Harbor; and

WHEREAS, on January 7, 2014 staff was informed by the Washington State Liquor Control Board that (other than the cap in Pierce County) there were no limitations to the number of marijuana retailers they would license within the City of Gig Harbor, even though the distribution of retail licenses was to be correlated with population; and

WHEREAS, the Liquor Control Board began accepting applications for all license types on November 18, 2013 and anticipates issuance of licenses in March/April 2014; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorize the City to adopt interim zoning regulations for a period of up to 12 months with a work plan after a public hearing and adoption of findings justifying the same; and

WHEREAS, in order to avoid the unintended concentration of marijuana retail uses within the City, staff has been directed to present interim regulations that would provide for separation of marijuana retail uses to ensure that the City does not experience the unintended concentration of marijuana retail uses; and

WHEREAS, on January 16, 2014, the Washington State Attorney General opined that I-502 does not preempt local authority to regulate such businesses beyond the minimum requirements of state law; and

WHEREAS, the Gig Harbor City Council, after a public hearing and after considering all testimony given, determined that adoption of these interim regulations is justified and in the best interests of the City; and

WHEREAS, the Gig Harbor City Council finds that adoption of these regulations for up to 12 months is appropriate given the bills that are pending before the Washington State Legislature this session and the time necessary to respond to anticipated changes in law; 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 GIG HARBOR, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Purpose. The purpose of this ordinance is to establish interim regulations relating to the separation of recreational marijuana retailers for a period of up to twelve month, or until such earlier time as permanent regulations may be adopted.

Section 2. Findings in Support of Establishing Interim Regulations. In addition to the findings relating to marijuana uses set forth in Ordinance No. 1271, which are incorporated herein, the Gig Harbor City Council adopts the recitals set forth above in support of adopting the interim regulations.

Section 3. Interim Zoning Regulations. Section 17.63.030(F) of the Gig Harbor Municipal Code is amended as follows:

F. Marijuana retailers may locate only in the following zones but only at designated sites licensed by the state of Washington and fully conforming to state law and Chapter 17.63 GHMC and only when marijuana retailers are separated by a minimum of 2,500 feet measured from the perimeter of any other marijuana retailer, to be determined by Pierce County Assessor Treasurer tax parcels:

1. Commercial District (C-1);
2. General Business District (B-2) and;
3. Employment District (ED) only if subordinate to the principal tenant use of Marijuana producer or marijuana processor, and occupy no more than 25 percent of the gross floor area of the principal tenant use.

Section 4. Duration of Interim Zoning Regulations. The interim zoning regulations shall remain in effect for a period of up to twelve months, and shall automatically expire at that time unless the same are extended as provided in RCW 36.70A.390 and RCW 35A.63.220 prior to that date, or unless the same are repealed or superseded by permanent regulations prior to that date.

Section 5. Planning Commission Work Plan. Due to the pending bills before the Washington State Legislature this session that could affect the interim regulations adopted in this ordinance, the City of Gig Harbor Planning Commission is hereby directed to conduct another review of the interim regulations in the fall of 2014, to consider any recommendations of the city attorney in response to any changes in law, and to make a recommendation on whether the regulations, or some modification thereof, should be permanently adopted. The Gig Harbor Planning Commission is directed to complete its review, to conduct such public hearings as may be necessary or desirable, and to forward its recommendation to the Gig Harbor City Council no later than December 8, 2014.

Section 6. Transmittal to Department. Pursuant to RCW 36.70A.106, this Ordinance shall be transmitted to the Washington State Department of Commerce.

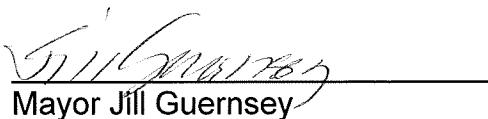
Section 7. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 8. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 9. Effective Date. This Ordinance shall take effect immediately upon adoption on February 24, 2014, and a summary published in the city's designated paper.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this 24th day of February, 2014.

CITY OF GIG HARBOR



Mayor Jill Guernsey

ATTEST/AUTHENTICATED:

Molly Towslee
Molly M. Towslee, City Clerk

APPROVED AS TO FORM:

Office of the City Attorney

Augie Bumump

FILED WITH THE CITY CLERK: 01/22/14
PASSED BY THE CITY COUNCIL: 02/24/14
PUBLISHED: 03/05/14
EFFECTIVE DATE: 02/24/14
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