

ORDINANCE NO. 816

**AN ORDINANCE RELATING TO ZONING, REGULATING
CERTAIN USES, AMENDING SECTION II, ORDINANCE
804, PROVIDING FOR ENFORCEMENT,
SEVERABILITY, AND AN EFFECTIVE DATE.**

R E C I T A L S:

1. With the adoption of Initiative 502, certain business activities were authorized subject to licencing by the Liquor Control Board (the LCB)

2. Pursuant to Ordinance 804, the City enacted a prohibition of activities authorized by Initiative 502, as codified in RCW Chapter 69.50.

3. Since that time, a request has been received to review the matter of the allowance of certain activities authorized under Initiative 502, specifically the growing and processing of marijuana as allowed by permission issued by WSLCB.

4. The Mayor and Council requested the Hearing Examiner to hold a public hearing with notice, receive public testimony, and provide a written report with findings, conclusions, and recommendations. That has been done.

5. The Council and Mayor have reviewed the Examiner's report and adopt by reference the findings and conclusions which are consistent with the action taken in this ordinance.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS BY THE CITY COUNCIL OF THE CITY OF McCLEARY:

SECTION I: It is found to be in the best interests of the City for a variety of reasons, including but not limited to public safety, to implement a prohibition or regulation of the allowance within the corporate limits of the siting and implementation of the uses set forth in Section II.

SECTION II: Section II, Ordinance 804 and the section of Chapter 17.20 by which it has been codified shall be amended to read as follows:

A. General: No use that is illegal under local, state, or federal law shall be allowed in any zone within the city.

B. Specific Application – Medical Marijuana Dispensaries and Collective Gardens: Until such time as this code is amended to provide specific provisions and land use controls allowing and regulating dispensaries of cannabis and/or collective gardens for the production, distribution, and dispensing of cannabis for medical uses, all as further defined and set forth in Chapter 69.51A RCW, as now existing or hereafter amended, such uses are not allowed in any zone within the city.

For purposes of this section:

1. "Dispensary" means any person, entity, site, location, facility, business, cooperative or collective, whether for profit or not for profit, that distributes, sells, dispenses, transmits, packages, measures, labels, selects, processes, delivers,

exchanges, or gives away cannabis for medicinal or other purposes.

2. "Collective garden" means the growing, production, processing, transportation, and delivery of cannabis, by qualifying patients, for medical use, as set forth in Chapter 69.51A RCW, as now existing or hereafter amended or succeeded.

C. Production and Processing Permitted (~~and Retailing of Marijuana Prohibited~~): The production and processing of marijuana by a person or entity possessing a valid license to do so as a marijuana producer or marijuana processor which has been issued by the Washington State Liquor Control Board pursuant to its authority granted by Initiative 502 and applicable provisions of RCW 69.50 and WAC 314-55, as now existing or hereafter amended or succeeded, shall be allowed as a permitted use in the General Commercial [C-2] and Industrial (I) zones so long as such activities are in compliance with the terms and conditions under which the license was issued.

1. In relation to the uses authorized by this section, the following specific provisions shall apply:

a. The facility shall be equipped with such air handling and filtering equipment so as to prevent the odor associated with the growth and processing of marijuana from escaping the interior of the facility.

b. Waste products shall be disposed of in a secure manner that will prevent exposure to or access by the public nor shall disposal or storage create a nuisance.

c. As a condition of processing of any application for any use authorized by this section, prior to the consideration of the issuance of any permit the

applicant shall provide proof satisfactory to the City of the provision of written notice to the owners of the property located within 1,000 feet of the boundaries of the Applicant's property and which are utilized as elementary or secondary schools, recreation centers or facilities, child care centers, churches, agencies which operate public parks, transit center, libraries, or a game arcade to which admission by anyone less than the age of 21 years is not restricted. The application shall not be considered complete until such proof is provided.

2. For purposes of this section, the following definitions apply: PROVIDED THAT, in the event that either RCW Chapter 69.50 or WAC Chapter 314.55, each as now existing or hereafter amended or succeeded, provide a different definition, the definition in the WAC Chapter 314.55 or RCW Chapter 69.50 shall govern.

a. "Marijuana processor" means a person licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

b. "Marijuana producer" means a person licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

~~((Until such time that this code is amended to provide specific provisions and land use controls allowing and regulating production, processing, retail sale, and retail outlets for the sale of marijuana and marijuana-infused products, all as defined in Initiative Measure No. 502, as codified in the Revised Code of~~

~~Washington, including RCW 69.50, and implementing regulations in Chapter 314-55 WAC, both as now existing or hereafter amended, such uses are each prohibited and not allowed in any zone within the city.))~~

D. Until such time that this code is amended to provide specific provisions and land use controls allowing and regulating ((~~production, processing,~~)) retail sale or (7) retail outlets for the sale of marijuana and marijuana-infused products, all as defined in Initiative Measure No. 502, as codified in the Revised Code of Washington, including RCW 69.50, and implementing regulations in Chapter 314-55 WAC, as now existing or hereafter amended, are each prohibited and not allowed in any zone within the city.

E. **Enforcement:** Any violation of this ordinance ((~~section~~)) is declared to be a public nuisance per se, and shall be abated by the city attorney under applicable provisions of this code or state law, including, but not limited to, the provisions of Section 17.40.140 MMC.

SECTION III: Section 17.20.030 MMC & Section 1 (Part), of Ordinance 709, as last amended by Section 2, Ordinance 804, is amended in the following respects:

A. The table of land uses setting forth permitted uses in the Industrial [I] zone shall be modified to add the following as a permitted use:

Marijuana growing and marijuana processing as defined in and permitted by Section II of this ordinance.

B. The table of land uses setting forth permitted uses in the General Commercial (C-2) zone shall be modified to add the following as a conditional use:

Marijuana growing and marijuana processing as defined in and permitted by Section II of this ordinance

SECTION IV: If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases had been declared invalid or unconstitutional, and if for any reason this Ordinance should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

SECTION V: This Ordinance shall take effect upon the fifth day following date of publication. As of that date, any moratorium imposed by prior ordinances on the activities covered by this ordinance shall be deemed repealed.

SECTION VI: Corrections by the Clerk-treasurer or Code Reviser. Upon approval of the Mayor and City Attorney, the Clerk-treasurer and the Code Reviser are authorized to make

necessary corrections to this ordinance, including the correction of clerical errors, references to other local, state, or federal laws, codes, rules, or regulations, or ordinance number and section/subsection numbering.

PASSED THIS 23rd DAY OF march, 2016, by the City Council of the City of McCleary, and signed in approval therewith this 23rd day of march, 2016.

CITY OF McCLEARY:


BRENT SCHLLER, Mayor

ATTEST:


WENDY COLLINS, Clerk-Treasurer

APPROVED AS TO FORM:

DANIEL O. GLENN, City Attorney

STATE OF WASHINGTON)
 : ss.
GRAYS HARBOR COUNTY)

I, WENDY COLLINS, being the duly appointed Clerk-Treasurer of the City of McCleary, do certify that I caused to have published in a newspaper of general circulation in the City of McCleary a true and correct summary of Ordinance Number 816 and that said publication was done in the manner required by law. I further certify that a true and correct copy

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03/11/2016
DG/le


CITY OF McCLEARY
100 SOUTH 3RD STREET
McCLEARY, WASHINGTON 98557

of the summary of Ordinance Number 816, as it was published, is on file in the appropriate records of the City of McCleary.


WENDY COLLINS

SIGNED AND SWORN to before me this 24th day of March, 2016, by WENDY COLLINS.




NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, Residing at: Grays Harbor
My appointment expires: May 6, 2017

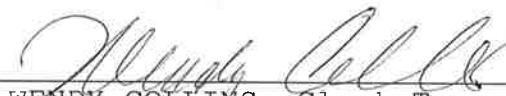
SYNOPSIS OF ORDINANCE NO. 816

**AN ORDINANCE RELATING TO ZONING, REGULATING CERTAIN
USES, AMENDING SECTION II, ORDINANCE 804, PROVIDING
FOR ENFORCEMENT, SEVERABILITY, AND AN EFFECTIVE
DATE.**

On March 23, 2016, the City Council of the City of McCleary adopted Ordinance Number 816. The intent and purpose of the Ordinance was amend the zoning provisions so as to authorize commercial cannabis growing and processing as a permitted use in the Industrial zone and as a conditional use in the C-2 zone. It modified certain distance restrictions and set forth certain specific regulations as to a variety of elements of the operation of such a business.

A complete copy of this Ordinance is available during regular business hours at the Office of the Clerk-Treasurer, City Hall, McCleary, Washington. The Ordinance will be made available for review without cost; a copy will be provided upon request without cost if such request is timely made. This Synopsis is published pursuant to the laws of the State of Washington.

DATED this 23rd day of March, 2016.



WENDY COLLINS, Clerk-Treasurer