

ORDINANCE No. 162A

FINDINGS OF FACT

1. Initiative 502 passed at the November 2012 General Election directing the Washington State Liquor Control Board to develop licensing and other regulatory measures for producing, processing, and selling marijuana for non-medical purposes.
2. I-502 limits the number of retail outlets to be licensed by each county, for the purpose of making usable marijuana and marijuana infused products available for sale to adults 21 years or over (I-502, Sec. 13).
3. I-502 decriminalizes, for the purposes of state law, the production, manufacture, processing, packaging, delivery, distribution, sale or possession of marijuana, as long as such activities are in compliance with I-502.
4. Chapter 314-55 WAC regulates the licensing and reporting requirements for the production, processing, and retail sale of marijuana products.
5. The Liquor Control Board's SEPA environmental checklist for the proposed rules did not appear to completely analyze the impact of outdoor growing of marijuana, but noted that "local land use regulations will avoid or minimize other impacts to sensitive areas".
6. Pacific County has analyzed its local land use regulations to determine whether or how environmentally sensitive areas may need additional protection from these new uses.
7. The Board of Pacific County Commissioners adopted Ordinance No. 172 on December 10, 2013 establishing a temporary emergency moratorium on marijuana related businesses until proper regulatory rules can be enacted.
8. The Pacific County Planning Commission conducted a public hearing on January 2, 2014, to receive public input and to consider proposed amendments in open session.
9. The Pacific County Planning Commission conducted a public hearing on January 16, 2014, to receive public input and to consider proposed amendments in open session.
10. The Pacific County Planning Commission conducted a public hearing on February 6, 2014, to deliberate and recommend language for Section 2 and Section 24 of Ordinance No. 162.

11. Placement of marijuana Production and Processing facilities are best suited in Industrial, Mixed Use, Tokeland Mixed Use, Agricultural, and Rural Lands. Placement of marijuana retail facilities are best suited in Community Commercial, Mixed Use, and Mixed Use-Tokeland zoning districts.

12. A Conditional Use process will adequately address potential impacts of Production and Processing facilities within the Industrial (I), Agricultural (A), Rural Lands (R-L), Mixed Use (M-U), and Mixed Use Tokeland (MU-T) zoning districts.

A Conditional Use process is the best mechanism to address potential impacts of marijuana Retail facilities within the Mixed Use (MU), Community Commercial (C-C), and Tokeland Mixed Use (TMU) zoning districts.

A Conditional Use process is the best way to ensure that everyone will have an opportunity to comment on specific license applications.

13. In addition to buffer requirements listed in WAC 314 -55-050(10), marijuana production and processing facilities will be located at least 200 feet from boundary lines of any lot that contains a dwelling. This set back requirement will ameliorate adverse impacts associated with the marijuana activity.

14. In addition to buffer requirements listed in WAC 314 -55-050(10), a 1000-foot setback will be required from churches with licensed daycare facilities. This setback requirement will minimize conflicts with church sponsored daycare facilities.

15. The Pacific County Comprehensive Plan encourages rural economic growth that is sensitive to the environment and will not adversely affect surrounding residential uses.

16. Businesses selling marijuana should be located on State Highways to minimize conflicts with other land uses.

17. Pacific County issued a SEPA preliminary determination of non-significance on December 24, 2013.

18. The Pacific County Planning Commission issued a State Environmental Policy Act (SEPA) final determination of non-significance at a public hearing on February 6, 2014. A review of the record in this case demonstrates that the SEPA determination of non-significance was appropriate.

19. Pacific County sent Notice of Proposed Ordinance Adoption to the Washington State Department of Commerce (Growth Management Services Division) on December 20, 2013 to satisfy the Dept. of Commerce 60-day notification requirement.

20. In adopting this Ordinance, the Pacific County Board of Commissioners is not implying that anyone who produces, processes, or sells marijuana is immune from prosecution under federal or state law.

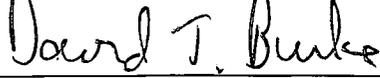
21. All public notice requirements for the public hearings pertaining to this Ordinance were met.

CONCLUSIONS OF LAW

1. The Washington State Growth Management Act (GMA), Chapter 36.70A RCW, mandates that Counties and Cities required or choosing to plan under the authority of the Growth Management Act must adopt development regulations consistent with the jurisdictional Comprehensive Plan and State Law.
2. Land/use zoning ordinances are considered to be GMA development regulation by State Law.
3. Pacific County opted to plan under the authority of the Growth Management Act in 1990 via adoption of Pacific County resolution No. 90-123.
4. Ordinance No. 162A will produce no probable significant adverse environmental impacts. A determination of non-significance (DNS) under the State Environmental Policy Act (SEPA) is appropriate for this zoning amendment.
5. Ordinance 162A, Zoning, promotes the health, safety, and welfare of the general public and is consistent with GMA requirements.
6. The Pacific County Board of Commissioners has the authority to enact this Ordinance pursuant to Chapter 36.32 RCW, Chapter 36.70 RCW, and Chapter 36.70A RCW.
7. The moratorium that was put in place through the passage of Ordinance No. 172 is no longer needed; therefore, Ordinance No. 172 should be repealed.
8. Ordinance No. 162A needs to go into effect immediately to enable marijuana producers, processors, and sellers to obtain necessary licenses.
9. Ordinance No. 162A will not affect State Law pertaining to medical cannabis under Chapter 69.51A RCW.
10. Since marijuana is still illegal under federal law, the insurance requirements contained in Ordinance No. 162A are necessary to minimize Pacific County's exposure to the costs of litigation.
11. Ordinance No. 162A does not expand marijuana production, producing, and selling beyond that which is authorized by the WA State Liquor Control Board and Initiative 502. As such, Ordinance No. 162A is consistent with State law and is justified under the County's police powers.
12. Ordinance No. 162A only applies to the unincorporated portions of Pacific County.

PACIFIC COUNTY
BOARD OF COMMISSIONERS

APPROVED AS TO FORM



David J. Burke, Prosecuting Attorney

ATTEST:

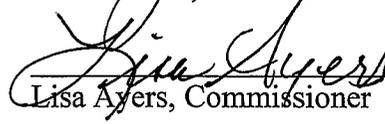

Marie Guernsey
Clerk of the Board



Steve Rogers, Chairman



Frank Wolfe, Commissioner


Lisa Ayers, Commissioner