CITY OF SAMMAMISH
WASHINGTON

ORDINANCE NO. O2011-309

AN INTERIM ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON, ADOPTING A MORATORIUM ON THE ESTABLISHMENT OF COLLECTIVE GARDENS; DEFINING "COLLECTIVE GARDENS;" PROVIDING FOR A PUBLIC HEARING, REFERRING THE MATTER TO THE PLANNING COMMISSION FOR HEARING AND REVIEW; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Initiative Measure No. 692, approved November 3, 1998, created an affirmative defense for "qualifying patients" to the charge of possession of cannabis; and

WHEREAS, the initiative and current Chapter 69.51A RCW are clear that nothing in its provisions are to be "construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of marijuana for non-medical purposes;" and

WHEREAS, the Washington State Department of Heath opines that it is "not legal to buy or sell" medical cannabis and further opines that "the law [Chapter 69.51A RCW] does not allow dispensaries," leaving enforcement to local officials; and

WHEREAS, the City acknowledges the right of qualified health care professionals to recommend the medical use of cannabis, acknowledges the affirmative defense available to qualifying patients from the possession of cannabis as well as the right of patients to designate a "designated provider" who can "provide" rather than sell cannabis to "only one patient at any one time;" and

WHEREAS, the Legislature has passed E2SSB 5073 (the Act) and the Governor has signed the bill but has vetoed several sections of the bill; and

WHEREAS, E2SSB 5073 will be effective on July 22, 2011, and

; WHEREAS, the Act authorizes "collective gardens" which would authorize certain qualifying patients the ability to produce, grow and deliver cannabis for medical use; and

WHEREAS, the City Council deems it to be in the public interest to establish a zoning moratorium pending local review of the anticipated changes in the law; and

WHEREAS, pursuant to RCW 36.70A.390 a public hearing must be held within 60 days of the passage of this ordinance;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Pursuant to the provisions of RCW 36.70A.390, a zoning moratorium is hereby enacted in the City of Sammamish prohibiting the licensing, establishment, maintenance, or continuation of any medical cannabis collective garden. A "collective garden" is an area or garden where qualifying patients engage in the production, processing, transporting, and delivery of cannabis for medical use as set forth in the Act and subject to the limitations therein.

Section 2. Collective gardens as defined in Section 1 are hereby designated as prohibited uses in the City of Sammamish. In accordance with the provisions of RCW 35A.82.020 and SMC 5.05, no business license shall be issued to any person for a collective garden, which are hereby defined to be prohibited uses under the ordinances of the City of Sammamish.

Section 3. This ordinance shall be referred to the Sammamish Planning Commission for its review and recommendation for inclusion in the zoning ordinances of the City of Sammamish.

Section 4. Ordinance to be Transmitted to Department. Pursuant to RCW 36.70A.106, this interim Ordinance shall be transmitted to the Washington State Department of Commerce as required by law.

Section 5. Public Hearing Set. Pursuant to RCW 36.70A.390, the City Council sets the City Council Regular Meeting of September 6, 2011, which begins at 6:30 pm at City Hall located in Sammamish Commons, 801 228th Avenue SE as the date, time and place for a public hearing on the continuance of this moratorium. The City Clerk is directed to cause appropriate notice of such hearing to be given.

Section 6. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 7. This Ordinance shall be effective for a period of six months from the date of enactment unless: sooner terminated by action of the Council; or, renewed for one or more additional six-month periods as provided by state law.

Section 5. The above "Whereas" clauses of this ordinance constitute specific findings by the Council in support of passage of this ordinance. If any part or portion of this ordinance is declared invalid for any reason, such declaration of invalidity shall not affect any remaining part or portion.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 18th DAY OF JULY 2011.

CITY OF SAMMAMISH

Mayor Donald J. Gerend

ATTEST/AUTHENTICATED:

Melonie Anderson, City Clerk

Approved as to form:

Bruce L. Disend, City Attorney

Filed with the City Clerk:	July 13, 2011
First Reading:	July 18, 2011
Public Hearing:	September 6, 2011
Passed by the City Council:	July 18, 2011
Date of Publication:	July 22, 2011
Effective Date:	July 18, 2011