

**CITY OF SAMMAMISH
WASHINGTON**

ORDINANCE NO. O2012-340

**AN INTERIM ORDINANCE OF THE CITY OF SAMMAMISH,
WASHINGTON, EXTENDING A MORATORIUM ON THE
ESTABLISHMENT OF COLLECTIVE GARDENS; DEFINING
“COLLECTIVE GARDENS;” 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 Health 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 was 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 deemed it to be in the public interest to establish a zoning moratorium pending local review of the anticipated changes in the law, which was implemented by Ordinance 2011-309 on July 18, 2011; and extended by Ordinance 2012-320, effective January 18, 2012, and Ordinance 2012-328, effective July 18, 2012; and

WHEREAS, the recent passage of Initiative 502 has not provided any additional clarity related to medical cannabis collective gardens; and

WHEREAS, no additional clarity regarding state and federal regulations related to the licensing, establishment, maintenance, or continuation of any medical cannabis collective garden is currently available; and

WHEREAS, a public hearing was held on December 4, 2012 and continued on December 11, 2012 in the City Council Chambers at City Hall; and

WHEREAS, the Council deems it in the public interest to renew the current moratorium continued by Ordinance 2012-328 for an additional six months in order to investigate this issue further and obtain guidance on how to proceed.

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. Upon receipt of sufficient information and/or guidance on this issue, the Sammamish City Council shall identify an appropriate time to refer the issue to the Sammamish Planning Commission for review and recommendations.

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. 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.

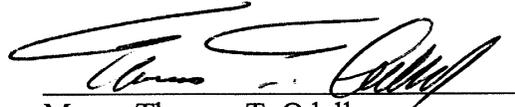
Section 6. This Ordinance shall be effective for a period of six months from the date of enactment unless: sooner terminated by action of the Council; or, renewed for one or more additional six-month periods as provided by state law.

Section 7. The above "Whereas" clauses of this ordinance constitute specific findings by the Council in support of passage of this ordinance.

Section 8. This moratorium, as an emergency measure necessary for the protection of the public health, safety, and welfare, shall be effective immediately upon termination of the moratorium imposed by Ordinance 2012-328 (January 18, 2013).

ADOPTED BY THE CITY COUNCIL AT A SPECIAL MEETING THEREOF ON DECEMBER 11th, 2012.

CITY OF SAMMAMISH



Mayor Thomas T. Odell

ATTEST/AUTHENTICATED:



Melonie Anderson, City Clerk

Approved as to form:



Bruce L. Disend, City Attorney

Filed with the City Clerk:	November 28, 2012
First Reading:	December 4, 2012
Public Hearing:	December 4, 2012
Public Hearing:	December 11, 2012
Passed by the City Council:	December 11, 2012
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