

**CITY OF SAMMAMISH
WASHINGTON**

ORDINANCE NO. O2013-349

AN INTERIM ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON, IMPOSING A MORATORIUM ON THE ESTABLISHMENT OF CERTAIN MARIJUANA-RELATED FACILITIES; DEFINING SAID CERTAIN MARIJUANA-RELATED FACILITIES; ENTERING LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, recent amendments to Chapter 69.51A RCW have expanded the scope of certain activities involving the use of marijuana for medical purposes, including the ability of “qualifying patients” to create and participate in “collective gardens” for the purpose of producing, processing, transporting, and delivering marijuana for medical use, subject to certain conditions; and

WHEREAS, Ordinance Nos. 2011-309, 2012-320, and Ordinance 2012-328 enacted and extended a moratorium on the establishment, licensing, and permitting of collective gardens within the city; and

WHEREAS, in 2012, the voters of the state of Washington passed Initiative 502, which authorizes the issuance of marijuana producer, processor and retailer licenses, subject to the proviso that retail sale and certain acts of producing and processing marijuana in accordance with I-502 and implementing regulations shall not be a criminal or civil offense under Washington state law, and subject to the further proviso that no such license shall be issued shall not issue a license for any premises within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older; and

WHEREAS, under Initiative 502 the Washington State Liquor Control Board (“WLCB”) is tasked with adopting no later than December 1, 2013 rules establishing the procedures and criteria for the licensing and operation of marijuana producers, processors and retailers; and

WHEREAS, on May 16, 2013, the Washington State Liquor Control Board (“WLCB”) issued informal draft rules; and

WHEREAS, the WLCB has indicated it plans to issue draft rules in approximately mid-June, 2013, with final adoption in approximately August, 2013 and issuance of marijuana producer, processor and retail licenses to qualified applicants beginning in December, 2013; and

WHEREAS, marijuana production, processing and retailing uses and facilities authorized by Initiative 502 must be addressed in the City's zoning code, but the impacts of these uses are still largely unknown, and the regulations that the City will need to address are uncertain pending the WLCB's formal adoption of licensing regulations and procedures; and

WHEREAS, a public hearing was held on June 17, 2013 in the City Council Chambers at City Hall; and

WHEREAS, the Council deems it in the public interest to impose a moratorium for a period of six months in order to investigate this issue further and obtain regulatory clarity and guidance from the WLCB's rules;

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

Section 1. Definitions. As used in this ordinance, the following terms have the definitions set forth below:

"Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

"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.

"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.

"Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" does not include useable marijuana.

"Marijuana retailer" means a person licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet.

Section 2. Moratorium Imposed. Pursuant to the provisions of RCW 35A.63.220 and RCW 36.70A.390, a zoning moratorium is hereby enacted in the City of Sammamish prohibiting the acceptance, processing, or approval of any license, permit, or other ministerial or discretionary approval authorizing the licensing, establishment, maintenance, or continuation of any use of property by a marijuana producer, marijuana processor, or marijuana retailer, or for use by any person for the production, processing, and/or retailing of marijuana.

Section 3. Marijuana Production, Processing and Retailing Prohibited. Pursuant to the moratorium imposed in Section 2, marijuana production, processing and retailing as defined in Section 1 are hereby designated as prohibited uses in the City of Sammamish while this ordinance is in effect. In accordance with the provisions of RCW 35A.82.020 and SMC 5.05, no business license shall be issued to any person for marijuana production, processing or retailing, and any permits issued for any of these uses in error or based on a vague and/or misleading application description during this moratorium are null and void, and without legal force or effect.

Section 4. 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 5. 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 6. Recitals Adopted as Findings of Fact. The Sammamish City Council adopts as its preliminary findings of fact the recitals set forth above. The Council may adopt additional findings in the event that additional public hearings are held or evidence is presented to the City Council.

Section 7. 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 8. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk 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 numbering and section/subsection numbering.

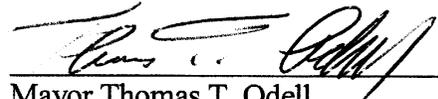
Section 9. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

Section 10. Duration. This ordinance shall be in effect for a period of six months from the effective date set forth above, and shall automatically expire at the conclusion of that six-month

period unless extended as provided in RCW 35A.63.220 and RCW 36.70A .390, or unless earlier terminated by action of the City Council.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 2nd DAY OF JULY 2013.

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:	June 12, 2013
Public Hearing:	June 17, 2013
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Public Hearing:	July 2, 2013
Passed by the City Council:	July 2, 2013
Date of Publication:	July 6, 2013
Effective Date:	July 11, 2013