

**CITY OF SAMMAMISH  
WASHINGTON**

**ORDINANCE NO. O2013-361**

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**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 Ordinance 2012-340, effective January 18, 2013; and Ordinance 2013-348, effective July 18, 2013; and

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

WHEREAS, additional clarity is needed regarding state and federal regulations related to the licensing, establishment, maintenance, or continuation of any medical cannabis collective garden; and

WHEREAS, the Washington State Liquor Control Board (“WLCB”) on October 16, 2013 issued final rules concerning implementation of I-502, which include provisions for issuance of licenses for retailers of marijuana without respect to whether a purchaser is a “qualifying patient” as defined in the Act; and

WHEREAS, the WLCB has indicated it plans to begin issuance of marijuana producer, processor and retail licenses to qualified applicants beginning in December, 2013; and

WHEREAS, the WLCB’s final regulations recently issued may affect the City Council’s ability to comprehensively evaluate the need and/or appropriateness of medical marijuana collective gardens within the City of Sammamish;

WHEREAS, a work group composed of staff from three state agencies, the WLCB and the Departments of Health and Revenue issued draft recommendations related to medical marijuana on October 21, 2013 that, once finalized, will be forwarded to the Washington State Legislature for consideration in January 2014; and

WHEREAS, the Legislature is expected to consider regulations related to medical cannabis throughout the year 2014, and

WHEREAS, a public hearing was held on November 18, 2013 in the City Council Chambers at City Hall; and

WHEREAS, the City intends to implement the work program set forth in Attachment A;

WHEREAS, the Council deems it in the public interest to renew the current moratorium continued by Ordinance 2013-348 for an additional six months in order to investigate this issue further, obtain regulatory clarity and guidance on how to proceed, and implement the work program set forth in Attachment A.

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

**Section 1.** Pursuant to the provisions of RCW 35A.63.220 and 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 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.

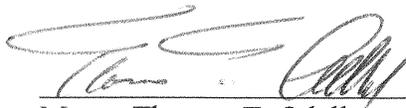
**Section 6.** The above "Whereas" clauses of this ordinance constitute specific findings of fact by the City Council in support of passage of this ordinance.

**Section 7.** Effective date. This moratorium shall be effective five days after passage and publication, but no sooner or later than the termination of the moratorium imposed by Ordinance 2013-348 (January 18, 2013).

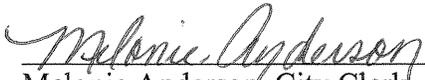
**Section 8.** Duration. This Ordinance shall be in effect for a period of six months from the effective date set forth above, and shall automatically expire at the conclusion of that six month period unless renewed for one or more additional periods as provided by state law, or unless earlier terminated by action of the City Council.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF  
ON DECEMBER 3rd, 2013.**

CITY OF SAMMAMISH

  
\_\_\_\_\_  
Mayor Thomas T. Odell

ATTEST/AUTHENTICATED:

  
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Melonie Anderson, City Clerk

Approved as to form:

  
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Michael R. Kenyon, City Attorney

Filed with the City Clerk:	November 12, 2013
Public Hearing:	November 18, 2013
First Reading:	November 18, 2013
Public Hearing:	December 3, 2013
Passed by the City Council:	December 3, 2013
Date of Publication:	December 9, 2013
Effective Date:	December 18, 2013

**Attachment A  
Recreational and Medical Marijuana Regulations  
Work Program**

2013 4Q	2014 1Q	2014 2Q	2014 3Q	2014 4Q
<p>Evaluate Washington State Liquor Control Board (WLCB) rules and procedures, actions of peer cities and Association of Washington Cities guidance</p> <p>Review the final WLCB rules, local regulation examples and timeframe</p>	<p>Evaluate locational criteria set forth in the rules as relates to Sammamish, complete mapping</p> <p>Monitor State legislation related to medical marijuana</p> <p>Seek policy guidance from the City Council</p>	<p>Develop options based on WLCB rules, legislation, and policy guidance from City Council</p>	<p>Draft regulations</p> <p>Complete Planning Commission review, public hearing and recommendation to the City Council</p> <p>State Environmental Policy Act (SEPA) review and threshold determination</p> <p>Complete State of Washington Department of Commerce 60 day Notice of Intent to Adopt</p>	<p>City Council review, public hearing, and adoption of regulations</p>