

**CITY OF SAMMAMISH  
WASHINGTON**

**ORDINANCE NO. O2014-370**

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**AN 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, subject to certain conditions; and

WHEREAS, Ordinance Nos. 2011-309, 2012-320, 2012-328, 2013-348, and 2013-361 enacted and extended a moratorium on the establishment, licensing, and permitting of collective gardens within the City and is proposed to be extended; and

WHEREAS, in 2012, the voters of the state of Washington passed Initiative 502 (“I-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 criminal or civil offenses under Washington state law, and subject to the further proviso that no such license shall be issued 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 I-502 the Washington State Liquor Control Board (“WLCB”) issued final rules concerning implementation of I-502 on October 16, 2013; and

WHEREAS, the WLCB began issuance of marijuana producer, processor and retail licenses to qualified applicants beginning in March 2014; and

WHEREAS, marijuana production, processing and retailing uses and facilities authorized by I-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 were recently issued; and

WHEREAS, a work group composed of staff from three state agencies, the WLCB and the Departments of Health and Revenue issued recommendations related to medical marijuana that were forwarded to the Washington State Legislature for consideration in January 2014; and

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WHEREAS, on March 31, 2014, in its decision in *Cannabis Action Coalition, et al. v. City of Kent*, Case No. 70396-0, the Washington State Court of Appeals Division I held that collective gardens are not legal under the Act and further upheld local governments' zoning authority to exclude or otherwise regulate collective gardens; and

WHEREAS, the Legislature has not taken further action regarding the regulation of medical marijuana and is expected to consider regulations related to medical marijuana throughout the year 2014; and

WHEREAS, the Legislature's consideration of regulations related to medical marijuana may affect the City Council's ability to comprehensively evaluate the need and/or appropriateness of recreational marijuana facilities within the City of Sammamish; and

WHEREAS, the City Council deemed it to be in the public interest to establish a zoning moratorium pending local review of the WLCB's rules and other information, which was implemented by Ordinance 2013-362, effective on January 11, 2014; and

WHEREAS, a public hearing was held on June 3, 2014; and

WHEREAS, the City previously adopted and intends to implement the 2014 work program set forth in Attachment A; and

WHEREAS, the City Council deems it in the public interest to extend the moratorium imposed under Ordinance 2013-362 for a period of six months in order to investigate this issue further, obtain regulatory clarity and guidance from the WLCB's rules and state legislation, and to implement the work program set forth in Attachment A;

**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 or entity licensed by the Washington State Liquor Control Board (“WLCB”) 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 or entity licensed by the WLCB 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 or entity licensed by the WLCB 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 of this Ordinance, marijuana production, processing and retailing as defined in Section 1 of this Ordinance 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 or entity 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. Referral to Sammamish Planning Commission.** The Sammamish City Council hereby refers this issue to the Sammamish Planning Commission for review and recommendations.

**Section 5. Ordinance to Be Transmitted to State Commerce 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 City Council may adopt additional findings in the event that additional public hearings are held or evidence is presented to the City Council.

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. 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 but no sooner or later than the termination of the moratorium imposed by Ordinance 2013-362 (July 11, 2014).

**Section 9. 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 17<sup>th</sup> DAY OF JUNE 2014.**

CITY OF SAMMAMISH

  
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Mayor Thomas E. Vance

ATTEST/AUTHENTICATED:

  
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Melonie Anderson, City Clerk

Approved as to form:

  
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for: Michael R. Kenyon, City Attorney

Filed with the City Clerk: May 28, 2014  
Public Hearing: June 3, 2014  
First Reading: June 3, 2014  
Passed by the City Council: June 17, 2014  
Date of Publication: June 20, 2014  
Effective Date: July 11, 2014

**Attachment A  
Recreational 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>