

Public Hearing Relating to the Moratorium on Medical Marijuana Collective Gardens and the Establishment of Marijuana-Associated Land Uses

Background and Analysis

On July 22, 2011, the State of Washington amended the Medical Cannabis Act, RCW Chapter 69.51A. This chapter is referred to as the “Medical Use of Cannabis Act” and outlines definitions for “collective gardens.” Collective gardens are defined by State law as a collective “consisting of not more than ten qualified patients sharing responsibility for acquiring and supplying the resources required to produce and to process cannabis for medical use.” Collective gardens are largely unregulated by the State.

In November 2012, the state voters passed Initiative 502, which directs the Washington State Liquor Control Board (LCB) to begin developing rules and regulations for producing, processing, and selling marijuana for non-medical purposes. Those draft rules have been put forth by the State of Washington as Washington Administrative Code (WAC) 314-55. (See Attachment 2) The public comment period on WAC 314-55 ended on Monday, June 10, 2013. Based on the number of comments received, the Liquor Control Board has pushed the date for finalizing the regulations to December 15, 2013. Allowing for the fact that the LCB will need to process, review and make a determination on applications received, it is likely that State-licensed marijuana retail outlets will not open until sometime during the Spring of 2014.

It is not yet clear how the Washington State Liquor Control Board rules and regulations will affect collective gardens.

In response to a growing number of these collective gardens within the City, especially the downtown core, Staff asked Council to enact an emergency moratorium on any new or expanded uses involving medical marijuana collective gardens and marijuana associated land uses. The moratorium was proposed to last 365 days from the date of Council approval to allow staff time to develop and implement a work plan for creating and adopting zoning regulations relating to such marijuana associated land uses. Key elements of the work plan are:

- Research neighborhood and other community aspects of collective gardens
- Review and decide how collective gardens are classified in existing building and land use codes
- Identify existing collective gardens and the existing and potential impacts associated with them
- Research regulatory practices of other jurisdictions relating to marijuana associated land uses, including , but not limited to, separation and dispersion requirements, signage, safety and security issues, appropriate zoning and location requirements and restrictions
- Review how collective gardens impact the City Council’s community vision

Staff will be drafting interim zoning regulations for Council consideration. Council may direct Staff to refer the issue of permanent zoning regulations relating to collective gardens and other marijuana associated land uses to the Planning Commission for its review and recommendations.

Attached are zoning regulations from several Washington cities (Edgewood, Kent, and Lacey – Attachments 3-5) which briefly show the varying ways which jurisdictions are approaching this subject. The City of Kent bans medical marijuana collective gardens in all zones but is silent on adult recreational use. The City of Edgewood also bans collective gardens in all present and future zones, but allows State-licensed marijuana producers, processors and retailers within specific zones in anticipation of adult recreational use sales, i.e. marijuana producers, processors and retailers can only be located in commercially zoned areas. The City of Lacey allows collective gardens with the issuance of a special Collective Garden Permit, subject to Staff review and conditions. City of Lacey borrows from the draft WAC 314-55, taking the prohibition of retail sales locations within 1,000 feet of any location where youth are likely to congregate and applying that same rule to medical collective gardens. The attached draft 1,000 foot exclusion zone map (Attachment 6) indicates that there would be very few locations within Olympia's downtown core that would be permissible were that same rule applied.

It is important to note that possession or sale of marijuana or marijuana infused products is still a violation of the Federal Controlled Substance Act, as indicated in the attached letter from the United States Department of Justice (Attachment 7).