

ORDINANCE NO. 4036

AN ORDINANCE of the city council of the city of Kent, Washington, amending Title 15 of the Kent City Code, to specify that medical cannabis collective gardens are not permitted in any zoning district within the city of Kent.

RECITALS

A. Recent amendments to Chapter 69.51A RCW, relating to the medical use of cannabis, have expanded the scope of certain activities, involving the use of cannabis for medical purposes that are permitted under state law.

B. Section 69.51A.085 RCW allows “qualifying patients” to create and participate in “collective gardens” for the purpose of producing, processing, transporting, and delivering cannabis for medical use, subject to certain conditions.

C. Section 69.51A.140 RCW delegates authority, to cities and towns, to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements, and business taxes, as

those requirements and taxes relate to the production, processing, or dispensing of medical cannabis within their jurisdictions.

D. The city council understands that approved medical uses of cannabis may provide relief to patients suffering from debilitating or terminal conditions, but potential secondary impacts from the establishment of facilities for the growth, production, and processing of medical cannabis are not appropriate for any zoning designation within the city.

E. The city council further understands that while the medical benefits of cannabis have been recognized by the state legislature, cannabis remains a Schedule I controlled substance under the federal Controlled Substances Act (CSA), and possession and use of cannabis is still a violation of federal law. The city council wishes to exercise the authority granted pursuant to state law in order to clarify that the establishment of a collective garden will be deemed to be a violation of city zoning ordinances, but the city council expressly disclaims any intent to exercise authority over collective gardens in a manner that would directly conflict with the CSA.

F. The city's State Environmental Policy Act (SEPA) official issued a Determination of Nonsignificance on September 26, 2011.

G. On September 23, 2011, notice was sent to the Washington State Department of Commerce requesting expedited review. On, October 10, 2011, the city was granted expedited review

and was informed that it had met the Growth Management Act notice requirements under RCW 36.70A.106.

H. The Economic and Community Development Committee considered this matter at its September 12, 2011 workshop, and held a public hearing on October 10, 2011. The matter was then considered at the Economic and Community Development Committee meetings on November 14, 2011, and December 12, 2011. The city council further considered this matter at its regular meeting on January 3, 2012, and the Economic and Community Development Committee again took up the matter at its May 14, 2012 meeting.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

ORDINANCE

SECTION 1. – *Amendment.* Chapter 15.02 of the Kent City Code is amended to add a new Section 15.02.074 to read as follows:

Sec. 15.02.074. Collective gardens.

Collective garden means the growing, production, processing, transportation, and delivery of cannabis, by qualifying patients, for medical use, as set forth in Chapter 69.51A RCW, and subject to the following conditions:

A. No more than ten qualifying patients may participate in a single collective garden at any time;

B. A collective garden may contain no more than fifteen plants per patient up to a total of forty-five plants;

C. A collective garden may contain no more than twenty-four ounces of useable cannabis per patient up to a total of seventy-two ounces of useable cannabis;

D. A copy of each qualifying patient's valid documentation, including a copy of the patient's proof of identity, must be available at all times on the premises of the collective garden;

E. No useable cannabis from the collective garden is delivered to anyone other than one of the qualifying patients participating in the collective garden;

F. A collective garden may contain separate areas for growing, processing, and delivering to its qualified patients, provided that these separate areas must be physically part of the same premises, and located on the same parcel or lot. A location utilized solely for the purpose of distributing cannabis shall not be considered a collective garden; and

G. No more than one collective garden may be established on a single tax parcel.

SECTION 2. - Amendment. Chapter 15.08 of the Kent City Code is amended by adding a new Section 15.08.290 to read as follows:

Sec. 15.08.290. Medical cannabis collective gardens.

A. *Collective gardens*, as defined in KCC 15.02.074, are prohibited in the following zoning districts:

1. All agricultural districts, including A-10 and AG;
2. All residential districts, including SR-1, SR-3, SR-4.5, SR-6, SR-8, MR-D, MR-T12, MR-T16, MR-G, MR-M, MR-H, MHP, PUD, MTC-1, MTC-2, and MCR;
3. All commercial/office districts, including: NCC, CC, CC-MU, DC, DCE, DCE-T, CM-1, CM-2, GC, GC-MU, O, O-MU, and GWC;
4. All industrial districts, including: MA, M1, M1-C, M2, and M3; and
5. Any new district established after June 5, 2012.

B. Any violation of this section is declared to be a public nuisance per se, and shall be abated by the city attorney under applicable provisions of this code or state law, including, but not limited to, the provisions of KCC Chapter 1.04.

C. Nothing in this section is intended to authorize, legalize, or permit the establishment, operation, or maintenance of any business, building, or use which violates any city, state, or federal law or statute.

SECTION 3. – *Severability.* If any one or more sections, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

SECTION 4. – *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 5. – *Effective Date.* This ordinance shall take effect and be in force five (5) days from and after its passage, approval and publication as provided by law. The City Clerk is directed to publish a summary of this ordinance at the earliest possible publication date.

SUZETTE COOKE, MAYOR

ATTEST:

BRENDA JACOBBER, CITY CLERK

APPROVED AS TO FORM:

TOM BRUBAKER, CITY ATTORNEY

PASSED: day 5th of June, 2012. APPROVED: day of , 20__.

PUBLISHED: day of , 20__.

I hereby certify that this is a true copy of Ordinance No. 4036 passed by the city council of the city of Kent, Washington, and approved by the Mayor of the city of Kent as hereon indicated.

(SEAL)

BRENDA JACOBBER, CITY CLERK

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