



City Council

Approval of Ordinance Extending for an Additional Six Months the Moratorium on Medical Marijuana Collective Gardens and Other Cannabis Related Uses not Addressed by I-502 (First and Final Reading)

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Title

Approval of Ordinance Extending for an Additional Six Months the Moratorium on Medical Marijuana Collective Gardens and Other Cannabis Related Uses not Addressed by I-502 (First and Final Reading)

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

- Hold the public hearing.
- After closing the Public Hearing and if Council has enough information for a decision, move to suspend Council's usual Guideline and approve on first and final reading the ordinance extending the moratorium on medical marijuana collective gardens for an additional 6 months, to a total of 729 days.

[Note Two-thirds affirmative vote of members present is needed for first and final reading = 5 members if all are present.]

Report

Issue:

Should the City Council extend the City's existing moratorium on new Medical Marijuana Collective Gardens and other cannabis related land uses not addressed by Initiative 502?

Staff Contact:

Chris Grabowski, Code Enforcement Officer, 360.753.8168
Darren Nienaber, Interim City Attorney, 360.753.8044

Presenter(s):

Chris Grabowski, Code Enforcement Officer, 360.753.8168
Darren Nienaber, Interim City Attorney, 360.753.8044

Background and Analysis:

City staff requests that the Council extend the City's moratorium on marijuana establishments that are not State-licensed. This is necessary because the State failed to take action in its last legislative session but is expected to take action in the next session. The following provides more information on the events leading to where we are now.

In November of 2012, Washington State voters passed Initiative Measure No. 502 (I-502) legalizing the sale of recreational cannabis in the State of Washington. Subsequently, on May 7, 2013, the Olympia City Council established a moratorium on all new cannabis related land uses. The moratorium was for one year. On October 15, 2013, Council approved interim zoning regulations for I-502 recreational marijuana and lifted that portion of the moratorium which applied to those uses. The moratorium on new medical marijuana collective gardens and other cannabis land uses not addressed by I-502 remained in place. At its April 15, 2014 meeting, the City Council extended the moratorium for an additional six months after holding the requisite public hearing. No member of the public testified at that hearing.

Since the adoption of the moratorium, there have been no new non-I-502 cannabis related land uses in the City. Complaints to the City's Code Enforcement Division about the existing collective gardens have been mostly regarding nuisance smells, which have been dealt with under the City's existing nuisance laws. One collective garden attempted to open this summer and was prevented from doing so by Code Enforcement staff. The City has not made a determination as to whether any of the existing shops that hold themselves out as collective gardens are in compliance with State law. Rather, the City has no significant evidence at this time that those shops violate the State legal requirements for collective gardens.

On July 28, 2014, the Olympia Hearing Examiner approved a Conditional Use Permit (CUP) for the State-licensed retailer Green Lady, Inc. A second State-licensed retailer, A Bud & Leaf, is currently moving through the CUP process. The State has only allotted the City of Olympia two recreational cannabis outlets. It is unclear what effect, if any, these two recreational outlets in the City will have on the medical collective gardens.

The Olympia Planning Commission held a public hearing at its August 18, 2014 meeting, regarding making the interim cannabis regulations permanent. No members of the public spoke at that public hearing. At its September 22, 2014 meeting, the OPC recommended making the interim regulations permanent.

The 2014 Legislature did not pass any amendments to the current medical cannabis statutes, and I-502 did not contain any amendments to the medical cannabis statutes. The result is that there are two separate systems in the State: one dealing with medical cannabis and the other more regulated system dealing with adult recreational use of cannabis. In January 2014, the Legislature took up the challenge of merging the existing medical cannabis collective garden laws with the new I-502 recreational laws. Washington House Bill 2149 and Washington Senate Bill 5887 both passed in their respective houses but unfortunately, in a short session, the Legislature was unable to send a combined bill to the Governor's office for signature. Consequently, the medical marijuana collective gardens will continue in their current uncertain legal status until the 2015 session of the Legislature.

In its August 29, 2013 memorandum to all United States Attorneys, the Department of Justice outlined its expectation that those jurisdictions which allow the use of recreational cannabis do so with the “expectation that states and local governments...will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests.” The medical marijuana market, acting through collective gardens, is at this point largely unregulated and thus may be a higher priority target for federal law enforcement. The State legislative attempts to regulate medical marijuana were partly in response to the Department of Justice memorandum.

In April of this year, the Washington State Court of Appeals upheld the City of Kent’s ban on medical marijuana collective gardens. Thus, cities are authorized to prohibit collective gardens outright.

Neighborhood/Community Interests (if known):

There are a number of shops currently serving the medical marijuana community that hold themselves out as existing collective gardens and came into existence prior to the City’s moratorium.

Options:

1. Conduct public hearing, pass moratorium extension on first and final reading.
2. Conduct public hearing, first reading moratorium extension. Final reading on November 3, 2014.
3. Conduct public hearing, do not extend moratorium, and let the moratorium expire on November 5, 2014.

Financial Impact:

None