



## 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

**Agenda Date:** 4/14/2015  
**Agenda Item Number:** 3.G  
**File Number:** 15-0320

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**Type:** ordinance **Version:** 2 **Status:** Passed

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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

#### **Recommended Action**

##### **Committee Recommendation:**

Not referred to a committee.

##### **City Manager Recommendation:**

Move to approve an ordinance on second reading to extend the moratorium on medical marijuana collective gardens and other cannabis related uses not addressed by I-502 for an additional six months.

#### **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:**

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##### **Presenter(s):**

Chris Grabowski, Code Enforcement Officer, 360.753.8168

##### **Background and Analysis:**

The background and analysis have not changed from first to second reading.

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 Legislature has not yet taken action

during its current legislative session but is expected to take action before the end of this legislative 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. At its October 28, 2014 meeting, the City Council again extended the moratorium for an additional six months after holding a public hearing. Again, no member of the public testified at the 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 during the summer of 2014 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.

At its October 28, 2014 meeting, the City Council approved making the interim regulations on I-502 recreational cannabis uses permanent. Again, no member of the public testified at the public hearing, which was conducted by the Olympia Planning Commission.

The Olympia Hearing Examiner has approved Conditional Use Permits (CUPs) for two State-licensed recreational cannabis retailers: Green Lady, Inc., and A Bud & Leaf. 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 have had on the medical collective gardens.

### **State Statutes**

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. The 2015 Legislature has again taken up the challenge of merging the existing medical cannabis collective garden laws with the new I-502 recreational laws. However, at the time of the writing of this staff report, final action had not been taken by the legislature on the regulation of medical marijuana.

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 2014, 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. Move to approve the ordinance on second reading.
2. Do not extend the moratorium, and let the moratorium expire on May 6, 2015.

**Financial Impact:**

None