

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Adoption of Ordinance No. 625, Relating to Collective Gardens for the Growing and Distribution of Medical Cannabis, Extending Interim Land Use Controls for Six Months and Adopting a New Regulatory License for Collective Gardens and Amending Chapter 5.07 of the Shoreline Municipal Code
DEPARTMENT: Planning and Community Development
PRESENTED BY: Paul Cohen, Senior Planner
ACTION: Ordinance Resolution Motion
 Discussion

PROBLEM/ISSUE STATEMENT:

On July 18, 2011, the Council adopted Ordinance No. 611 establishing interim regulations and a six -month moratorium on the submittal or processing of development permits or business license applications for medical marijuana collective gardens (MMCGs) that did not satisfy the interim regulations. The Council also scheduled a public hearing for September 12, 2011 on the moratorium and interim regulations. The Council amended the moratorium September 12, 2011 and directed staff to begin the public process to study and recommend permanent regulations.

The City’s adopted interim regulations include:

- A. There shall be no more than one collective garden permitted on a property tax parcel.*
- B. Collective gardens may only be located in the NB, O, CB, NCBD, MUZ, and I zones.*
- C. A collective garden or facility for delivery of cannabis produced by the garden may not be located within 1,000 feet of schools and not within 1,000 feet of any other collective garden or delivery site.*
- D. Any transportation or delivery of cannabis from a collective garden shall be conducted by the garden members or designated provider so that quantities of medical cannabis allowed by E2SSB 5073 §403 are never exceeded.*

The Planning Commission held a public hearing and made its recommendations on December 1, 2011. The City Council held a discussion of the Planning Commission recommendations on January 3, 2012. The January 3 staff report and supporting materials can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/Council/Staffreports/2012/Staffreport010312-7a.pdf>.

On January 3 the City Council directed staff to draft an ordinance to extend the existing six-month moratorium and regulations with a provision to require operators of collective gardens to acquire an annual Collective Garden License (Attachment A). The license fee for 2012 is \$599.50 and the license requirements include the following:

License applicants and all persons who receive wages, fees, donations or compensation of any kind for performing collective garden activities (“operators”) shall meet the following requirements:

- 1) Must be a qualified patient or designated provider of a garden patient and must submit valid documentation, or written designation by a qualified patient with that patient’s valid documentation and proof of identification deemed acceptable by the clerk.
- 2) Must be at least 18 years of age.
- 3) May have no criminal convictions within five years preceding the date of application, or a felony conviction of State or federal drug laws within the ten years preceding date of application.
- 4) May not be a member of any other collective garden within the State of Washington.

Collective Garden premises must operate in compliance with the following conditions:

1. All premises or vehicles used or operated by the Collective Garden shall have no greater aggregate quantities of cannabis, cannabis plants or cannabis containing products than are allowed under RCW 69.51A.085.
2. No more than ten qualifying patients may participate in a single collective garden at any time. A copy of each qualifying patient’s valid documentation and proof of identity must be available at all times on the premises.
3. No cannabis may be delivered to anyone other than a qualifying patient participating in the collective garden or that patient's designated provider.
4. No cannabis, cannabis plants or representations of cannabis plants shall be used in signage, advertising or visible to public view or in areas of the premises open to the public.
5. Areas where cannabis is grown, stored or dispensed must be provided with ventilation systems so that no odors are detectable off the premises.
6. No minors shall be permitted on any collective garden premises unless a patient and accompanied by a parent or guardian.
7. Consumption of cannabis, products containing cannabis or alcohol on the premises is prohibited.
8. The premises shall be closed to any distribution of cannabis between the hours of 10 p.m. and 7 a.m.

The Collective Garden License will add a new section to Shoreline Municipal Code Section 5.07 and incorporate the other provisions of that chapter. Council will delay adopting permanent regulations at this time, as the State Legislature is expected to

readdress the topic of collective gardens for the growing and distribution of medical cannabis this spring. Staff will monitor the outcomes from the State legislative process to make future recommendations to Council on permanent regulations. The current six-month moratorium is scheduled to expire on January 18, 2012.

The Council also requested examples of ordinances from other cities regulating collective gardens. Staff has included ordinances from the following cities:

1. City of Everett (Attachment B)
2. City of Issaquah (Attachment C)
3. City of Mukilteo (Attachment D)

RESOURCE/FINANCIAL IMPACT:

Assuming that there are up to six MMCGs in Shoreline this would generate \$3,000 in annual license revenue. Staff anticipates additional staff time will be allocated to license processing and issuance by the City Clerk and Police Department, along with additional police time allocated for patrol and enforcement of City regulations. The license fee is expected to compensate for these additional administrative costs.

RECOMMENDATION

The City Council should adopt Ordinance No. 625 prior to the January 18, 2012 moratorium expiration date in order to extend the moratorium.

Approved By: City Manager - City Attorney – *IS*

ATTACHMENTS:

- A – Ordinance No. 625
- B – City of Everett Ordinance
- C – City of Issaquah Ordinance
- D – City of Mukilteo Ordinance

ORDINANCE NO. 625

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, RELATING TO COLLECTIVE GARDENS FOR THE GROWING AND DISTRIBUTION OF MEDICAL CANNABIS, EXTENDING INTERIM LAND USE CONTROLS FOR SIX MONTHS AND ADOPTING A NEW REGULATORY LICENSE FOR COLLECTIVE GARDENS AND AMENDING CHAPTER 5.07 OF THE SHORELINE MUNICIPAL CODE

WHEREAS, E2SSB 5073 (the Act) effective on July 22, 2011 authorizes "collective gardens" which would allow up to ten qualifying patients the ability to produce, grow and deliver cannabis for medical use; and

WHEREAS, the Act authorizes local municipalities to exercise local location, health and safety controls for the regulation of collective gardens; and

WHEREAS, the City Council established interim regulations with passage of Ordinance No. 611 on July 18, 2011 and held a public hearing on September 12, 2011 on these interim regulations, and based on comment received, amended the interim regulations with Ordinance No. 614; and

WHEREAS, a determination of nonsignificance (DNS) was issued under SEPA on December 2, 2011 on proposed permanent land use regulation of collective gardens; and

WHEREAS, the Planning Commission held a public hearing on the collective garden interim regulations on December 1, 2011, and recommended permanent land use regulation and the creation of a new regulatory license to control operations necessary to protect public health and safety; and

WHEREAS, Governor Gregoire's veto of most sections of the Act leave ambiguity, conflicts and unresolved needs in the State's criminal defense scheme for patients using medical cannabis, and it is anticipated the 2012 legislative session will address and clarify laws relating to this defense including the establishment, operation, and financing of collective gardens or other medical cannabis distribution entities, which will likely require Shoreline ordinances which provide consistency with state law; and

WHEREAS, the Council finds it is a better use of City resources and it minimizes disruption to collective gardens established under Shoreline's interim land use regulations to extend those regulations no longer than six months to study any new legislation regarding medical cannabis before proceeding to act on permanent land use regulations regarding collective gardens; and

WHEREAS, continuing interim land use controls for up to six additional months is necessary to prevent substantial change until final land areas and development standards applicable to collective gardens are adopted in the municipal code; and

WHEREAS, the regulatory license recommended by the Planning Commission, including those recommended controls on collective gardens that are appropriately enforced through such a license, should be adopted without delay as authorized by the Act; now therefore

THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Interim land use regulations extended. Based on comments of the public hearing on interim regulations for collective gardens held by the Planning Commission on December 1, 2011, the City Council adopts and incorporates herein the recitals above as findings of fact in support of extending the interim land use regulations of Shoreline Ordinance No. 611 as amended by Ordinance No. 614 pursuant to RCW 36.70A.390. These interim regulations shall remain in effect until July 18, 2012 unless amended or repealed according to law before that date.

Section 2. Permanent regulations. The City Council directs the staff to prepare an analysis of changes, if any, in state law regarding medical cannabis or other legalization of cannabis distribution passed in the 2012 legislative sessions and refer draft permanent land use regulations deemed necessary or appropriate based on the analysis to the Shoreline Planning Commission for review and recommendation to the City Council.

Section 3. New Sections. A new Article VII *Collective Gardens* is added to chapter 5.07 of the Shoreline Municipal Code to read as follows:

.740. Definitions.

- A. "Designated Provider" is defined in RCW 69.51A.010(
- B. "Qualifying Patient" is defined in RCW 69.51A.010
- C. "Valid documentation" is defined in RCW 69.51A.010(7)

.745 Purpose. The purpose of this regulatory license is to mitigate potential impacts of collective gardens on nearby properties and to promote public safety through enforcement of zoning restrictions, state controlled substances laws, and license requirements of this chapter. This license shall not be construed as authorizing violation of any City, State or federal drug laws.

.750 License required- requirements for operators

A. It is unlawful to conduct, operate or maintain a collective garden unless such premises has a current Collective Garden License obtained in the manner prescribed in this chapter. Premises includes all locations used by a collective garden to grow, store, process, transport, or distribute medical cannabis to its qualified patients including exterior spaces and parking areas associated with these activities. No more than one Collective Garden License may be issued for a tax parcel.

B. License applicants and all persons who receive wages, fees, donations or compensation of any kind for performing collective garden activities ("operators") shall meet the following requirements:

- 1) Must be a qualified patient or designated provider of a garden patient and must submit valid documentation, or written designation by a qualified

patient with that patient's valid documentation and proof of identification deemed acceptable by the clerk.

- 2) Must be at least 18 years of age.
- 3) May have no criminal convictions within five years preceding the date of application, or a felony conviction of State or federal drug laws within the ten years preceding date of application.
- 4) May not be a member of any other collective garden within the State of Washington.

.755 Premises requirements. Collective Garden premises must operate in compliance with the following conditions:

1. All premises or vehicles used or operated by the Collective Garden shall have no greater aggregate quantities of cannabis, cannabis plants or cannabis containing products than are allowed under RCW 69.51A.085.
2. No more than ten qualifying patients may participate in a single collective garden at any time. A copy of each qualifying patient's valid documentation and proof of identity must be available at all times on the premises.
3. No cannabis may be delivered to anyone other than a qualifying patient participating in the collective garden or that patient's designated provider.
4. No cannabis, cannabis plants or representations of cannabis plants shall be used in signage, advertising or visible to public view or in areas of the premises open to the public.
5. Areas where cannabis is grown, stored or dispensed must be provided with ventilation systems so that no odors are detectable off the premises.
6. No minors shall be permitted on any collective garden premises unless a patient and accompanied by a parent or guardian.
7. Consumption of cannabis, products containing cannabis or alcohol on the premises is prohibited.
8. The premises shall be closed to any distribution of cannabis between the hours of 10 p.m. and 7 a.m.

Section 4. Amendment. SMC 3.01.035(B) General Licenses shall be amended as follows:

B. Regulatory License Fees

License	Fee
General Licenses	
Regulated massage business	\$181.75 per year
Massage manager	\$40.75 per year
Public dance	\$128.75 per Dance
Pawnbroker	\$599.50 per year
Secondhand	\$57.50 per year
Master solicitor	\$117.50 per year
Solicitor	\$29.50 per year
<u>Collective Garden</u>	<u>\$599.50 per year</u>
Duplicate license	\$5.50
Late fees for general licenses: A late penalty shall be charged on all applications for renewal of a general license received	

later than 10 working days after the expiration date of such license. The amount of such penalty is fixed as follows:

- A. For a license requiring a fee of less than \$50.00, two percent of the required fee.
- B. For a license requiring a fee of more than \$50.00, ten percent of the required fee.

Section 2. Publication. This ordinance shall take effect five days after publication of the title of this ordinance as an approved summary of the ordinance in the official newspaper of the City.

PASSED BY THE CITY COUNCIL ON JANUARY 9, 2012.

Mayor Keith A. McGlashan

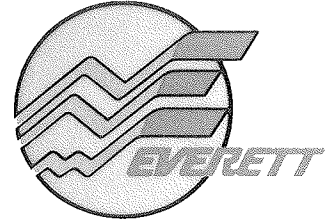
ATTEST:

APPROVED AS TO FORM:

Scott Passey
City Clerk

Ian Sievers
City Attorney

Date of publication: , 2012
Effective date: , 2012



ORDINANCE NO. 3231-11

An Emergency Ordinance relating to medical cannabis, establishing interim zoning regulations, and declaring an emergency to exist.

Whereas, the City Council finds that:

1. Initiative Measure 692, approved November 1998, permitted the medical use of marijuana for certain terminal and debilitating conditions; and
2. The Legislature enacted E2SSB 5073 (Chapter 181, Laws of 2011), which was partially vetoed by the Governor, and becomes effective July 22, 2011; and
3. E2SSB 5073 § 102 details the Legislature’s intent that “[h]umanitarian compassion necessitates that the decision to use cannabis by patients with terminal or debilitating medical conditions is a personal, individual decision based upon their health care professional’s professional medical judgment and discretion” and that qualifying patients “shall not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences under state law based solely on their medical use of cannabis, notwithstanding any other provision of law”; and
4. E2SSB 5073 § 403 allows a patient to join a collective garden to produce, process, transport, and deliver cannabis in order to safely procure necessary cannabis when they may be otherwise unable to grow their own cannabis; and
5. E2SSB 5073 does not place restrictions on collective gardens to assure their compliance with state law requirements, integration into local zoning schemes and plans, orderly distribution, or safe operation, but allows local governments to “adopt and enforce . . . [z]oning requirements, business licensing requirements, [and] health and safety requirements” “pertaining to the production, processing, or dispensing of cannabis or cannabis products within their jurisdictions”; and
6. The ambiguity of the regulatory scheme, its inconsistency with federal law, and the lack of sufficient time to study the issue and adopt regulations prior to the effective date of E2SSB 5073 creates a risk of the proliferation of collective gardens without adequate regulation

of their health and safety impacts, location, set-backs from sensitive uses, and other land use impacts; and

7. An unrestricted proliferation of collective gardens within the City presents potential health and safety concerns and prevents effective regulation following adequate study; and

8. The City wishes to establish necessary and appropriate regulations on an interim basis while considering whether additional land use or health and safety regulations are necessary and appropriate; and

9. Upon initial consideration, the most appropriate location for collective gardens appears to be in the City's agricultural zone, subject to further study and consideration; and

10. An emergency ordinance is necessary for immediate preservation of the public peace, health, safety, and welfare and to prevent the vesting of rights incompatible with the later adoption of a regulatory scheme addressing collective gardens; and

11. RCW 35.63.200 and RCW 36.70A.390 authorize the City to adopt an interim zoning ordinance; and

12. The adoption of this Ordinance is exempt from the threshold determination and environmental impact statement requirements of the State Environmental Policy Act, RCW 43.21C, pursuant to WAC 197-11-880 and EMC 20.04.030; and

13. The City held a public hearing on the date of adoption of this Ordinance; and

14. Nothing in this Ordinance is intended to authorize any use or activity that violates federal law, which classifies marijuana as a Schedule I controlled substance; and

Whereas, the City Council concludes that:

1. The City does have the authority to establish interim regulations; and

2. The City must adopt interim regulations concerning the establishing and processing of applications for collective gardens to act as a stop-gap measure: (a) to provide the City an opportunity to study the issues concerning the siting and regulation of such collective garden uses and prepare appropriate revisions to the City's regulations; and (b) to avoid applicants possibly establishing vested rights contrary to and inconsistent with any revision the City may make to its regulatory scheme as a result of the City's study of this matter; and

3. An emergency does exist to protect the public health, safety, and welfare;

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Findings of Fact

The “Whereas” provisions above shall constitute Findings of Fact and are incorporated by reference as if fully set forth herein.

Section 2. Interim Regulations

E2SSB 5073 § 403 allows a patient to join a Collective Garden for the purpose of procuring necessary cannabis for medical use. Notwithstanding the provisions of Title 19 EMC (Ordinance No. 1671-89, as amended), these interim zoning regulations allow establishment of Collective Gardens, as defined herein, with the approval of the Planning Director and subject to the following, and are the sole means of establishing Collective Gardens within the City:

A. “Collective Gardens” shall have the same meaning as that term is referenced and defined in E2SSB 5073 § 403.

B. The Planning Director, under Review Process I (Article II, Chapter 15.16, EMC), may approve applications seeking approval of Collective Gardens as an allowed land use subject to the following requirements:

1. Collective Gardens are only an allowed use in A-1 (Agricultural) zoned lots and shall not be an allowed use in other zones.

2. No more than one Collective Garden is permitted per lot.

3. No Collective Garden may be sited within one thousand feet (1,000 ft.) of any church, synagogue, mosque, temple, or public or private school or daycare.

4. Collective Gardens must be located inside of a permanent structure, with an engineered foundation, which meets all applicable requirements of Title 16 of the Everett Municipal Code.

5. Collective Gardens must be shielded from view from any location open to the public.

6. Collective Gardens must comply with adequate safety measures, as adopted by the Planning Director.

7. The Planning Director is authorized to promulgate rules for the implementation and administration of this Section.

C. Any Collective Garden not in compliance with these regulations is illegal and subject to criminal enforcement and enforcement action as specified in this Ordinance.

Section 3. Work Plan

Staff is hereby directed to implement the following work plan during the interim period. Staff is directed to review existing laws and regulations applicable to medical uses of cannabis and

collective gardens and to monitor the pending dispute between state and federal law enforcement authorities regarding the legality of medical cannabis use under state and federal law. In addition, staff is hereby directed to review existing zoning, land use, and other regulations applicable within the City and to consider potential amendments to such regulations, after studying the potential impacts on the peace, health, safety, and welfare, to provide that the medical use of cannabis is permitted to the extent allowed by federal and state law and in a manner which assures adequate protection of the public health, safety, and welfare. Staff is encouraged to review and consider the experiences of other jurisdictions dealing with similar situations.

Section 4. Term

These interim regulations shall terminate one year after passage unless earlier repealed or renewed according to law.

Section 5. Effective Date

This Ordinance is hereby adopted as an emergency ordinance. As reflected in the Findings of Fact, this Ordinance is necessary to preserve the public peace, health, safety, and welfare and to prevent the vesting of rights incompatible with the later adoption of a regulatory scheme addressing collective gardens. As such, this Ordinance shall take effect and be in full force immediately upon becoming valid.

Section 6. Enforcement

- A. Enforcement of the provisions of this Ordinance will be performed in accordance with Chapter 1.20 of the Everett Municipal Code.
- B. No person or entity may violate or fail to comply with any provisions of this Ordinance. Each person or entity commits a separate offense for each and every day they commit, continue, or permit a violation of any provision of this Ordinance.
- C. Any violation of this Ordinance is hereby declared to be a public nuisance.
- D. The City Attorney is authorized to file for injunctive or other civil relief in any court of competent jurisdiction. The violator will be responsible for costs, including reasonable attorney fees.

Section 7. Conflict

In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

Section 8. Severability

Should any section, subsection, paragraph, sentence, clause, phrase, or portion of this Ordinance or its application to any person or situation, be declared unconstitutional, invalid for any reason, or preempted by state or federal law or regulations, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to any other persons or situations. The

City Council hereby declares that it would have adopted this Ordinance and each section, subsection, paragraph, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses, phrases, or portions be declared unconstitutional, invalid, or preempted.

Section 9. General Duty

It is expressly the purpose of this Ordinance to provide for and promote the health, safety, and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees, or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees, or agents.

Section 10. Savings


The enactment of this Ordinance shall not affect any case, proceeding, appeal, or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 11. Corrections

The City Clerk is authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, Ordinance numbering, section/subsection numbers, and any references thereto.


Ray Stephanson, Mayor

ATTEST:


Sharon Marks, City Clerk

PASSED: 7/20/11

VALID: 7/21/11

PUBLISHED: 7/24/11

EFFECTIVE DATE: 7/21/11

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WDT
9/22/11
R:10/7/11gjz
R:10/27/11
R:11/1/11
R:11/22/11jmr

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ISSAQUAH, WASHINGTON, REGULATING COLLECTIVE GARDENS; ADDING NEW DEFINITIONS TO CHAPTER 18.02; ADDING A NEW SECTION 18.07.515 PROVIDING FOR THE REGULATION OF COLLECTIVE GARDENS, REQUIRING SEPARATION AND SECURITY; ADDING A NEW CHAPTER 5.18 TO BE ENTITLED "COLLECTIVE GARDEN SAFETY LICENSES" AND REGULATING THE LOCATION AND OTHER ATTRIBUTES OF COLLECTIVE GARDENS; AMENDING SECTION 1.36.030 TO ADD A REFERENCE TO VIOLATIONS OF THE COLLECTIVE GARDEN SAFETY LICENSE CHAPTER; AMENDING THE TABLE OF USES IN SECTION 18.06.130 TO RESTRICT THE LOCATION OF COLLECTIVE GARDENS; ADDING A FOOTNOTE TO THE TABLE IN SECTION 18.04.100-3 TO CONTAIN A REFERENCE TO COLLECTIVE GARDENS; ADDING A NEW SUBSECTION K TO SECTION 18.04.400 TO REQUIRE A LEVEL 2 REVIEW FOR COLLECTIVE GARDENS; REPEALING THE MORATORIUM ESTABLISHED BY ORDINANCE 2619; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, on April 29, 2011, the Governor signed ESSB 5073, subject to vetos of several sections of the bill, "the Act", and

WHEREAS, the Act became effective on July 22, 2011 and allowed certain qualified patients the ability to form collective gardens under certain terms for the purpose of producing, processing, transporting, and delivering cannabis for medical use subject to certain

AB 6329
Exhibit G
Page G-1

conditions, and

WHEREAS, under the Act, cities may adopt and enforce zoning requirements and health and safety requirements pertaining to the production, processing, or dispensing of cannabis or cannabis products within their jurisdiction; and

WHEREAS, on June 20, 2011, the Issaquah City Council enacted a moratorium on location of collective gardens pending review by the Planning Policy Commission, and

WHEREAS, the Issaquah City Council held a public hearing on July 18, 2011, and following the public hearing continued the moratorium on collective gardens and established a termination date for the moratorium, and

WHEREAS, the Planning Policy Commission has held hearings on September 22 and October 13, 2011, and has forwarded its recommendations to the City Council, and

WHEREAS, the City Council desires to regulate collective gardens as provided herein, NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF ISSAQUAH, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1. Definitions: Chapter 18.02 of the IMC is hereby amended to add the following definitions:

Section 18.02.050 Definitions – C

Cannabis: All parts of the plant *Cannabis*, whether growing or not; 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. For the purpose of this chapter, “cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds 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

AB 6329
Exhibit G
Page G-2

of the plant which is incapable of germination. The term "cannabis" includes cannabis products and useable cannabis.

Cannabis products: Products that contain cannabis or cannabis extracts, have a measurable THC concentration greater than three-tenths of one percent, and are intended for human consumption or application, including, but not limited to, edible products, tinctures, and lotions. The term "cannabis products" does not include useable cannabis. The definition of "cannabis products" as a measurement of THC concentration only applies to the provisions of this chapter and shall not be considered applicable to any criminal laws related to marijuana or cannabis.

Cannabis, usable: Dried flowers of the Cannabis plant having a tetrahydrocannabinol (THC) concentration greater than three-tenths (3/10) of one percent (1%) per weight or volume. Useable cannabis excludes stems, stalks, leaves, seeds and roots. For purposes of this definition, "dried" means containing less than fifteen percent (15%) moisture content by weight. The term useable cannabis does not include cannabis products.

Collective garden: The growing, production, processing, and/or delivery of cannabis for medical use by up to ten collective members as set forth in Chapter 69.51A RCW and subject to the limitations therein and in this ordinance. Each collective garden shall have no more than forty five (45) plants and twenty four (24) ounces of usable cannabis per patient, up to a maximum of seventy two (72) ounces of usable cannabis on site. As used herein any constituent part of a collective garden shall be considered as a collective garden.

Collective member: Up to ten qualifying patients with membership in a single collective garden.

18.02.150 Definitions – M

Marijuana: All parts of the plant *Cannabis*, whether growing or not. See also Cannabis.

Medical marijuana collective garden: See Collective garden.

18.02.190 Definitions – Q

Qualifying patient: A person who:

- A. Is a patient of a health care professional; and

- B. Has been diagnosed by that health care professional as having a terminal or debilitating medical condition; and
- C. Is a resident of the state of Washington at the time of such diagnosis; and
- D. Has been advised by that health care professional about the risks and benefits of the medical use of marijuana; and
- E. Has been advised by that health care professional that they may benefit from the medical use of marijuana. The term “qualifying patient” does not include a person who is actively being supervised for a criminal conviction by a corrections agency or department that has determined that the terms of this chapter are inconsistent with and contrary to his or her supervision and all related processes and procedures related to that supervision.
- F. Possesses “valid documentation” of meeting the above criteria as defined in Chapter 69.51A RCW.

Section 2. A new section 18.07.515 is hereby added to the IMC to read as

follows:

18.07.515 Collective Gardens

- A. Purpose: The purpose of this section is to minimize the impacts of collective gardens on surrounding properties and ensure public safety.
- B. Membership: Collective Gardens shall not exceed ten (10) members, and each member shall be a qualifying patient.
- C. General Requirements:
 - 1. A collective garden shall be entirely within a permanent enclosed structure with a roof. The structure shall comply with the City of Issaquah building codes and any other applicable codes.
 - 2. No horticulture production, processing or delivery of cannabis shall be visible to the public.
 - 3. A collective garden shall obtain a valid city collective garden safety license.

4. Application Requirements: An application for a collective garden shall include the following information in addition to the application requirements for a Level 2 Administrative Site Development Permit (ASDP):

a. The application shall be made by a qualifying patient and include valid documentation of that status as described in Chapter 69.51A RCW.

b. The applicant shall have a background check administered by the Issaquah Police Department to ensure that the applicant has not been convicted of a felony for a drug law violation within the past ten (10) years. This background check may be combined with the background check required for a Collective Garden Safety License by IMC 5.18.070 Background Check provided the applicant for the ASDP and Collective Garden Safety License are the same person(s);

c. A map drawn to scale showing all collective gardens, community centers, and schools, within 1,000 feet and parks, preschools, and day care centers within 500 feet of the parcel proposed for the collective garden. A survey map showing these features prepared by a surveyor licensed in the state of Washington may be required by the Planning Director/Manager.

5. The City shall have the authority to inspect the site for compliance with all applicable permits at any time during regular business hours.

D. Separation Requirements:

1. No collective garden shall be permitted within one-thousand (1,000) feet of any other collective garden.

2. Only one (1) collective garden is permitted on any one site.

3. The growing functions of a collective garden shall be separated from where the cannabis or cannabis products are processed and delivered to the qualified patients of a collective garden by at least one-thousand (1,000) feet.

4. No collective garden shall be permitted within one-thousand (1,000) feet of any community center or school.

5. No collective garden shall be permitted within five hundred (500) feet of any park, preschool, or daycare.

6. Measurement: The measurement shall be taken in a straight line from the point on the property line of the uses specified in this section closest to the collective garden to the nearest physical point of the tenant space or structure housing a collective garden.

7. A use specified in this subsection shall not benefit from the separation requirements of this subsection if the use chooses to locate within the required separation distance from a lawfully located collective garden. A collective garden is lawfully located if it has located within the City in accordance with the requirements of this section.

E. Security Requirements: A collective garden shall:

1. Have installed, prior to issuance of a Collective Garden Safety License, an operational security system that is monitored 24 hours a day; and

2. Have installed, prior to issuance of a Collective Garden Safety License, an operational security camera system which retains recordings from all installed cameras for a period of not less than sixty (60) days; and

3. Comply with the Crime Prevention Through Environmental Design (CPTED) regulations in Appendix 2 of Chapter 18.07 IMC Required Development and Design Standards, to the extent possible as determined by the Planning Director/Manager.

F. Signage: All signs shall comply with the Issaquah Sign Code, Chapter 18.12 IMC.

Section 3. A new chapter 5.18 is hereby added to the IMC to read as follows:

**Chapter 5.18
Collective Garden Safety Licenses**

5.18.010 Definitions

A. "Person" means one or more natural persons of either sex, corporations, partnerships, associations or other entities capable of having an action at law brought against such entity, but shall not include employees of persons licensed pursuant to this chapter.

B. "Collective garden" means the growing, production, processing, and/or delivery of cannabis for medical use by up to

ten collective members as set forth in Chapter 69.51A RCW and subject to the limitations therein and in this ordinance. Each collective garden shall have no more than forty five (45) plants and twenty four (24) ounces of usable cannabis per patient, up to a maximum of seventy two (72) ounces of usable cannabis on site. As used herein any constituent part of a collective garden shall be considered as a collective garden.

5.18.020 Collective Garden Safety License required.

It is unlawful for any person to conduct, operate, or engage in a collective garden in the City unless the person is a member of the collective garden and unless the collective garden has first obtained a currently valid Collective Garden Safety License from the City. No more than one (1) collective garden may operate on a single premise.

5.18.030 Application procedure

A. Applicants for a license under this chapter must file with the Planning Director/Manager an application in writing on a form to be furnished by the Planning Department.

B. All applicants, who must be a member of the collective garden, must supply the following information:

1. Name, date of birth, valid driver's license(s);
2. Name, physical address, mailing address, and phone number of the collective garden;
3. Whether or not the applicant(s) has ever been convicted of a crime related to the drug laws, and if so, the details thereof;
4. Fingerprints for a background check; see IMC 5.18.070 Background Check, below;
5. File number of an Administrative Site Development Permit (ASDP) application for the collective garden;
6. Any other information as may be required by the Planning Director/Manager, or his/her designee.

C. Application for a collective garden license shall be accompanied by the proper fee.

D. The Planning Director/Manager shall approve or deny the license. If an application is denied by the Planning Director/Manager, the reason for denial shall be stated.

E. Neither the filing of an application for a license, or the renewal thereof, nor the payment of any application or renewal fee, shall authorize a person to engage in or conduct a collective garden until such license has been granted or renewed.

5.18.040 License application form

The collective garden safety license application shall contain the provision that additional permits or licenses may be necessary before the collective garden can commence operation.

5.18.050 Term of license

A collective garden safety license shall be valid for one (1) year from the date of issuance.

5.18.060 Fees

A. The fee for each license required by this chapter shall be three-hundred fifty (\$350.00). The fee for renewal of the license shall be one-hundred forty dollars (\$140.00) per year.

B. Any person required to have or obtain a Collective Garden Safety License who fails to obtain and pay the license fees within 30 days of notice, in addition to any other penalties provided in this chapter, shall be assessed a \$25.00 late fee.

5.18.070 Background check

A. An applicant applying for Collective Garden Safety License shall submit fingerprints and appropriate fees as established by the Issaquah Police Department to the City. The City will submit the prints to the Washington State Patrol and the Federal Bureau of Investigation. Upon receipt of the fingerprints and the appropriate fees, the Washington State Patrol will compare the subject's fingerprints against its criminal database and submit the fingerprints to the Federal Bureau of Investigation for a comparison with nationwide records. The results of the Washington State Patrol and Federal Bureau of Investigation's check will be returned to the City. Upon receipt of the results, the City will decide whether the applicant has had a felony conviction within the past 10 years for an offense directly related to the permit

request for a Collective Garden.

B. The Planning Director/Manager shall deny a license if the background check shows that the applicant(s) has been convicted of a felony related to drug laws within the past ten (10) years.

5.18.080 Security and other permit requirements

Prior to issuance of a license under this chapter, a collective garden shall:

A. Have installed an operational security alarm system that is monitored 24 hours a day; and

B. Have installed an operation security camera system which retains recordings from all installed cameras for a period of not less than sixty (60) days.

C. Have approval of any required additional permits such as, but not limited to, an Administrative Site Development Permit, building permit and other construction permits, and show compliance with conditions of approval.

5.18.090 Ineligible activities

The granting of a collective garden safety license shall not be construed as the City's authorization of any person to engage in any activity prohibited by federal, State or local law or regulation.

5.18.100 Revocation or suspension of license – Grounds

The Planning Director/Manager, or his/her designee, may, at any time, suspend or revoke any license issued under the provisions of this chapter whenever the licensee, or any officer, employee or partner thereof:

A. Has violated any State or City statute, law, regulation or ordinance upon the collective garden premises stated in the license or in connection with the collective garden stated in the license, whether or not the licensee, or officer or partner thereof, has been convicted in any court of competent jurisdiction of such violation; or

B. Has maintained or permitted the collective garden stated in the license to be conducted, engaged in or operated in such manner as to constitute a public nuisance or in violation of any City

regulation; or

C. Has been convicted of a felony related to drug laws within the past ten (10) years; or

D. Has made any material false statement or representation in connection with obtaining the license.

5.18.110 Appeals

Appeals from any denial, revocation, or suspension shall follow the procedures in IMC 5.02.100.

5.18.120 Penalty

Any person violating any of the provisions of this chapter shall be guilty of a civil infraction and, upon conviction, shall be punished in accordance with the provisions set forth in IMC 1.36.030(A). As to violations of IMC 5.18.020 Collective Garden Safety License Required, the Code Enforcement Officer and the City Prosecuting Attorney shall have the discretion, pursuant to IMC 1.36.030(C), to file such violations as civil infractions or criminal misdemeanors. With respect to any fine imposed upon conviction of either a civil infraction or a criminal misdemeanor, \$250.00 of the fine shall not be suspended or deferred.

Section 4. Civil Infraction. Section 1.36.030 of the IMC is hereby amended to add the following to the schedule of penalties:

5.18.020 Collective Garden Safety License required - \$250

Section 5. Permitted Use. The table of permitted uses in IMC 18.06.130 is hereby amended to add collective gardens as a permitted use in commercial zoning districts, as set forth in Exhibit A.

Section 6. Changes of Use: Table 18.04.100-3 of the IMC is hereby amended to add the following footnote:

Specified Uses: Changes of Use for a collective garden, adult entertainment facility, or secure community transition facility are reviewed as listed in IMC 18.06.130, Table of Permitted Land Uses, regardless of the previous use.

Section 7. Levels of Review. Section 18.04.400 of the IMC is hereby amended to add a new subsection K as follows and to reletter the existing subsections from L to N accordingly:

K. Collective Gardens: Level 2 Review is required for collective gardens regardless of their street location or parcel size including parcels greater than fifteen (15) acres.

Section 8. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 9. Repeal of Ordinance 2619. Ordinance 2619, passed by the City Council on July 18, 2011, is hereby repealed.

Section 10. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

Passed by the City Council of the City of Issaquah, the _____ day of _____, 2011.

Approved by the Mayor of the City of Issaquah the _____ day of _____, 2011.

APPROVED:

AVA FRISINGER, MAYOR

ATTEST/AUTHENTICATED:

CHRISTINE EGGERS, CITY CLERK

AB 6329
Exhibit G
Page G-11

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY _____
WAYNE D. TANAKA

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO. _____

AB 6329
Exhibit G
Page G-12

Exhibit A

Permitted Land Uses

18.06.130 Table of Permitted Land Uses

Land Uses	ZONING DISTRICTS																
	CONSERVANCY/ RECREATION	RESIDENTIAL								COMMERCIAL				FACILITIES			MIN
	C-Rec	C-Res	SF-E	SF-S	SF-SL	SF-D	MUR	MF-M	MF-H	PO	CBD	R	IC	CF-F	CF-R	CF-OS	M
AGRICULTURE/RESOURCE																	
Botanical Gardens, Arboretum		2	2							1	1	1	1	2	3		
Collective Garden	<i>See Medical</i>																
Commercial or Public Greenhouses		2	2							1	2	1	1	2			
Christmas Tree or Produce Stands, Vendors, Seasonal: Temporary	<i>See "Temporary Use"</i>																
Crop Production, Livestock, Orchards		2	2														
Natural Resources Research	2	2	2											2	2	2	
Hatchery, Fish/Fish Preserve	<i>Governed by Shoreline Master Program; see IMC 18.10.940</i>																
Hobby Farm		2	2														
Horse Stables/Boarding/Riding Schools		2	2											2			
Horticulture: Tree Farm		2	2											2			
Kennel, Commercial/Boarding		2	2									2 ⁵	2 ⁵				
Trailhead	<i>See Recreation</i>																
Veterinary Hospital/Clinic	<i>See Commercial: Medical</i>																
Unclassified Ag or Resource Use	<i>See Procedure for Unclassified Uses at IMC 18.06.050(B)(3)</i>																
MINERAL RESOURCE⁴	SIC #																
Mineral Extracting ^{1,2}	10,12,14																2
Asphalt/Concrete Mixing ^{2,3}	2951/3271/3273																2
DISTRICT KEY:																	
C-Rec = Conservancy Recreation			SF-D = Single Family Duplex (7.26 or 14.52 du/acre)				PO = Professional Office				CF = Community Facilities						
C-Res = Conservancy Residential			SF-SL = Single Family Small Lot (7.26 du/acre)				CBD = Cultural and Business District				CF-OS = Open Space						
SF-E = Single Family Suburban Estates (1.24 du/acre)			MUR = Mixed Use Residential				R = Retail Commercial				CF-R = Recreation						
SF-S = Single Family Suburban (4.5 du/acre)			MF-M = Multifamily Medium Density (14.52 du/acre)				IC = Intensive Commercial				CF-F = Facilities						
			MF-H = Multifamily High Density (29 du/acre)				M = Mineral Resource										
FOOTNOTES KEY:																	
1 The mineral resource potential of any property within the City should be realized through predevelopment activities (clearing, grading and site preparation). In this regard, the City's Comprehensive Plan Map "Mineral Resources Lands" designates properties with mineral resource potential to be realized through predevelopment activities.																	
2 In accordance with IMC 18.04.400(J), permissible mineral resource activities in existence prior to August 2, 1999, are not subject to Level 2 Review.																	
3 Only as an accessory use to a primary mineral extraction use, or as a continuation of a mineral processing use established prior to August 2, 1999.																	
4 Mining, processing and reclamation of any type below the water table is prohibited in Class 1 and 2 CARA. In Class 3 CARA, these activities will be reviewed under development permit.																	
5 Outdoor accessory services and/or uses, see IMC 18.07.180, Animals – Veterinary clinics/boarding kennels/pet daycares.																	
PERMITTED USE & LEVEL OF REVIEW KEY:																	
0 = Level 0 Review; 1 = Level 1 Review*; 2 = Level 2 Review*; 3 = Level 3 Review, regardless of size/location of parcel; 4 = Level 4 Review; 5 = Level 5 Review; NO NUMBER = NOT PERMITTED																	
*Level 3 Review required if Level 1 or 2 proposal is ≥ three (3) acres and < fifteen (15) acres. Level 3 Review is also required for Level 1 or Level 2 proposals located on Front St., Sunset Way, NW Maple St., Newport Way, Gilman Blvd. (east of SR 900), SR 900, NW Sammamish Rd., East Lake Sammamish Parkway (ELSP), SE 56th Street west to one thousand two hundred (1,200) feet east of ELSP, Issaquah-Fall City Road, Issaquah-Pine Lake Road SE, 228th Avenue SE, SE 43rd Way, West Lake Sammamish Parkway (WLSP) or any street or street segment that abuts and is generally parallel to Interstate 90 (I-90), or the site abuts I-90; see Chapter 18.04 IMC Procedures for details on levels of review; provided, that this provision shall not apply to property subject to the IMC 18.19.030 Olde Town Design Standards. The level of review designated on the Table of Permitted Land Uses is required for property subject to the Olde Town Design Standards.																	
*Level 5 Review required if project is > fifteen (15) acres.																	
Critical Aquifer Recharge Areas/Well Head Protection – Any proposed uses within critical aquifer recharge areas that have the potential to degrade water quality in the CARA may be prohibited, or conditioned as established in IMC 18.10.796 Critical Aquifer Recharge Areas (CARAs) and Chapter 13.29 IMC Groundwater Quality Protection Standards.																	

000112 - 25

Exhibit A

Land Uses	ZONING DISTRICTS																
	CONSERVANCY /RECREATION	RESIDENTIAL								COMMERCIAL				FACILITIES			MIN
	C-Rec	C-Res	SF-E	SF-S	SF-SL	SF-D	MUR	MF-M	MF-H	PO	CBD	R	IC	CF-F	CF-R	CF-OS	M
INDUSTRIAL/INTENSIVE COMMERCIAL (Continued)																	
Manufacturing, Light (indoor and 30,000 sq. ft. or less)										3		3	1				
Manufacturing, General													1				
Machine Shop													1				
Printing and Publishing							2			2	2	1	1				
Raw Materials Processing (wood, metal, etc.) ¹													2				
Recycling Center ¹													2	3 ²			
Research and Development Lab										3			2				
Sand Blasting													3				
Storage, Outdoor													2				
Storage, Self (completely enclosed) ^{1,3}										3		2	1				
Welding Shop													1				
Unclassified Industrial/Intensive Use	<i>See Procedure for Unclassified Uses at IMC 18.06.050(B)(3)</i>																
MEDICAL																	
- Ambulance/Emergency Facility (private)											2	2	2	1			
- Collective Garden ⁷											2	2	2	2			
- Drugstore/Pharmacy	<i>See Retail/Service</i>																
- Hospital										3		3	2				
- Medical and Dental Offices/Massage Therapists	<i>See Office/Professional</i>																
- Veterinary Clinic (animal)										3 ^{4,5}	2 ⁵	2 ⁵	2 ⁶	2 ⁶			
DISTRICT KEY:																	
C-Rec = Conservancy Recreation	SF-D = Single Family Duplex (7.26 or 14.52 du/acre)								PO = Professional Office				CF = Community Facilities				
C-Res = Conservancy Residential	SF-SL = Single Family Small Lot (7.26 du/acre)								CBD = Cultural and Business District				CF-OS = Open Space				
SF-E = Single Family Suburban Estates (1.24 du/acre)	MUR = Mixed Use Residential								R = Retail Commercial				CF-R = Recreation				
SF-S = Single Family Suburban (4.5 du/acre)	MF-M = Multifamily Medium Density (14.52 du/acre)								IC = Intensive Commercial				CF-F = Facilities				
	MF-H = Multifamily High Density (29 du/acre)								M = Mineral Resource								
FOOTNOTES KEY:																	
1 See Design Criteria Checklist for screening requirements.																	
2 Permitted as an accessory use only in the Community Facilities zone.																	
3 See IMC 18.07.527, Self-storage facility standards.																	
4 Only permitted on the ground floor within a mixed use building if over one thousand five hundred (1,500) sq. ft. Total nonresidential uses in a mixed use building shall not exceed fifty percent (50%) of gross floor area with no individual use over four thousand (4,000) sq. ft. Buildings in existence prior to November 1, 2006, are not subject to mixed use or scale restrictions, but may not be expanded where scale/size limits are exceeded.																	
5 Outdoor accessory services and/or uses prohibited, see IMC 18.07.180, Animals – Veterinary clinics/boarding kennels/pet daycares.																	
6 Outdoor accessory services and/or uses, see IMC 18.07.180, Animals – Veterinary clinics/boarding kennels/pet daycares.																	
7 See IMC 18.07.515 Collective Gardens for additional requirements. Level 2 Review applies regardless of parcel size or street location, see IMC 18.04.400 Thresholds – Level 2.																	
PERMITTED USE & LEVEL OF REVIEW KEY:																	
0 = Level 0 Review; 1 = Level 1 Review*; 2 = Level 2 Review*; 3 = Level 3 Review, regardless of size/location of parcel; 4 = Level 4 Review; 5 = Level 5 Review; NO NUMBER = NOT PERMITTED																	
*Level 3 Review required if Level 1 or 2 proposal is ≥ three (3) acres and < fifteen (15) acres. Level 3 Review is also required for Level 1 or Level 2 proposals located on Front St., Sunset Way, NW Maple St., Newport Way, Gilman Blvd. (east of SR 900), SR 900, NW Sammamish Rd., East Lake Sammamish Parkway (ELSP), SE 56th Street west to one thousand two hundred (1,200) feet east of ELSP, Issaquah-Fall City Road, Issaquah-Pine Lake Road SE, 228th Avenue SE, SE 43rd Way, West Lake Sammamish Parkway (WLSP) or any street or street segment that abuts and is generally parallel to Interstate 90 (I-90), or the site abuts I-90; see Chapter 18.04 IMC for details on levels of review; provided, that this provision shall not apply to property subject to the IMC 18.19.030 Olde Town Design Standards. The level of review designated on the Table of Permitted Land Uses is required for property subject to the Olde Town Design Standards.																	
*Level 5 Review required if project is > fifteen (15) acres.																	
Critical Aquifer Recharge Areas/Well Head Protection – Any proposed uses within critical aquifer recharge areas that have the potential to degrade water quality in the CARA may be prohibited, or conditioned as established in IMC 18.10.796 Critical Aquifer Recharge Areas (CARAs) and Chapter 13.29 IMC Groundwater Quality Protection Standards.																	

000112 - 26

ORDINANCE NO. ####

AN ORDINANCE OF THE CITY OF MUKILTEO, WASHINGTON, RELATING TO LAND USE AND ZONING AND LICENSING; ALLOWING MEDICAL CANNABIS COLLECTIVE GARDENS AS A PERMITTED LAND USE; AMENDING SECTION 17.08.020 MMC - DEFINITIONS; AMENDING SECTION 17.16.040 MMC – PERMITTED, CONDITIONAL, TEMPORARY AND INTERIM USES; CREATING A NEW CHAPTER 5.70 MMC – MEDICAL CANNABIS COLLECTIVE GARDENS SAFETY LICENSE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Initiative Measure No. 692, approved by the voters of Washington State on November 30, 1998 and now codified as chapter 69.51A RCW, created an affirmative defense for “qualifying patients” to the charge of possession of marijuana (cannabis); and

WHEREAS, in 2011 the Washington State Legislature considered a bill (E2SSB 5073) that would have authorized the licensing of medical cannabis dispensaries, production facilities, and processing facilities; and

WHEREAS, on April 29, 2011, Governor Gregoire vetoed the portions of E2SSB 5073 that would have provided the legal basis for legalizing and licensing medical cannabis dispensaries, processing facilities and production facilities, thereby making these activities illegal; and

WHEREAS, in order to provide qualifying patients with a new means of access to an adequate, safe, consistent and secure source of medical cannabis, E2SSB 5073 also contained a provision authorizing “collective gardens” which would authorize qualifying patients the ability to produce, grow, process, transport and deliver cannabis for medical use, and that provision was approved by Governor Gregoire, effective on July 22, 2011; and

WHEREAS, E2SSB 5073, as approved, further authorized cities to adopt and enforce zoning requirements regarding production and processing of medical cannabis; and

WHEREAS, the Mukilteo City Council approved Ordinance No. 1285 on August 1, 2011 adopting interim regulations for Medical Cannabis Collective Gardens that were effective and in full force immediately for a period of six months; and

WHEREAS, the City Council deems it to be in the public interest to establish permanent zoning regulations related to medical cannabis collective gardens; and

WHEREAS, nothing in this Ordinance is intended nor shall be construed to authorize or approve of any violation of federal or state law;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MUKILTEO, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Definitions; MMC 17.08.020 - Amended.

A. The City hereby adopts those definitions and meanings set forth in chapter 69.51A RCW, as the same now exist or as it may hereafter be amended. In the event chapter 69.51A RCW is amended to include definitions for any of the terms set forth below, the definitions set forth below shall be deemed automatically amended to conform to such amendments.

B. The following definitions shall be added to MMC 17.08.020 – Definitions:

“Marijuana” or “cannabis” means all parts of the plant *Cannabis*, whether growing or not.

“Medical cannabis collective garden” or “collective garden” means any place, area or garden where qualifying patients share responsibility and engage in the production, processing, and delivery of cannabis for medical use as set forth in chapter 69.51A RCW and subject to the limitations therein.

“Usable cannabis” means dried flowers of the *Cannabis* plant having a tetrahydrocannabinol (THC) concentration greater than three-tenths of one percent per weight or volume. Usable cannabis excludes stems, stalks, leaves, seeds and roots. For purposes of this subsection, “dried” means containing less than fifteen percent moisture content by weight.

“Youth-oriented facility” means facilities owned or operated by non-profit organizations for the purpose of providing recreational and/or educational opportunities for youth, including but not limited to, Boys & Girls Clubs, YMCAs, YWCAs, little league baseball and other youth sports associations.

C. The definition for “agriculture” set forth in MMC 17.08.020 shall be amended to read as follows:

“Agriculture” means tilling of the soil, the raising of crops, horticulture, viticulture, the harboring of livestock, pasturing, grazing, dairying, and/or animal husbandry including all uses customarily incidental thereto, except the following:

- Animal shelter buildings for horses and barns;
- Beekeeping;
- Harboring of chickens;
- Noncommercial individual or collective gardens;
- Medical cannabis collective gardens; and
- Any type of kennel, animal services facility or research facility using animals.

Agriculture uses are not a permitted use in the permitted use matrix in Section 17.16.040 and thus are not allowed.

Section 3. MMC 17.16.040A - Amended. MMC 17.16.040A – Permitted Use Matrix is hereby amended to read as shown on Exhibit A attached to this ordinance and incorporated herein by reference as if set forth in full.

Section 4. MMC 17.16.040B – Amended. MMC 17.16.040B – Reference Notes for Permitted Use Matrix shall be amended to include a new reference note to read as follows:

##. Medical Cannabis Collective Gardens. All Medical Cannabis Collective Gardens shall meet the following development standards:

a. Location

- i. No more than one (1) collective garden shall be located on a single parcel.
 - ii. No more than one (1) collective garden shall be located in a single structure.
 - iii. Collective gardens shall be located fully within a permanent structure that complies with the City Building Code and constructed under a building permit from the City regardless of the size or configuration of the structure.
 - iv. No collective garden shall be located in a mobile structure.
 - v. No collective garden or medical cannabis operation shall be located within 500 feet of the following. The measurement shall be taken in a straight line from property boundary to property boundary.
 - (A) Another existing collective garden; and
 - (B) Public park; and
 - (C) Community center; and
 - (D) Elementary or secondary school (public and private) ; and
 - (E) Day care center; and
 - (F) Youth oriented facility; and
 - (G) Residential or mixed-use zoning district.
- b. No production, processing or delivery of cannabis shall be visible to the public from outside of the structure.
- c. Collective gardens shall meet all requirements under E2SSB 5073, including but not limited to, limitations on number of members, number of plants, amount of usable cannabis on site, maintenance of each member’s valid documentation of qualifying patient status.
- d. All fertilizers, chemicals, gases and hazardous materials shall be handled in compliance with all applicable local, state and federal regulations. No fertilizers, chemicals, gases or hazardous materials shall be allowed to enter a sanitary sewer or stormwater sewer system nor be released into the atmosphere outside of the structure where the garden is located.
- e. No odors shall be allowed to migrate beyond the interior portion of the structure where the garden is located.

- f. A Certificate of Occupancy shall be obtained prior to the start of operations of the collective garden.
- g. A Medical Cannabis Collective Garden Safety License pursuant to MMC 5.70 shall be obtained prior to the start of operations of the collective garden.
- h. Collective gardens shall be operated in compliance with public safety and development laws that similar activities are required to comply with, including but not limited to:
 - i. City of Mukilteo Health and Safety regulations as set forth in MMC Title 8; and
 - ii. City of Mukilteo Public Peace, Morals and Welfare regulations as set forth in MMC Title 9; and
 - iii. City of Mukilteo Public Services regulations as set forth in MMC Title 13; and
 - iv. City of Mukilteo Buildings and Construction regulations as set forth in MMC Title 15; and
 - v. City of Mukilteo Zoning regulations as set forth in MMC Title 17 and Title 17B; and
 - vi. Alderwood Water & Wastewater District requirements; and
 - vii. Snohomish County Public Utility District No. 1 requirements; and
 - viii. State of Washington Chapter 70.160 RCW Smoking in Public Places regulations; and
 - ix. Americans with Disabilities Act requirements.

Section 5. MMC 5.70 – Medical Cannabis Collective Garden Safety License - New. A new chapter 5.70 entitled Medical Cannabis Collective Garden Safety License shall be adopted and added to Mukilteo Municipal Code to read as follows:

Sections:	
5.70.010	Purpose
5.70.020	License required
5.70.030	Application and fee
5.70.040	Renewal
5.70.050	Appeal and hearing

5.70.010 Purpose

The medical cannabis safety license is intended to ensure the garden is:

- A. Operated in a manner that protects the public’s safety, health and general welfare.
- B. Located in a structure that can safely accommodate the use and that has adequate mechanical systems and utilities for the use.

5.70.020 License Required

- A. A Collective Garden Safety License shall be obtained prior to operation of any medical cannabis collective garden.

B. The license must be on display on the premises at all times.

5.70.030 Application and fees

- A. The license fee, as established by City Council resolution, shall be submitted with the license application to the finance director.
- B. Issuance of the license shall occur only after an inspection of the site by representatives of the City of Mukilteo Planning, Building and Fire Departments and verification that all of the requirements of MMC 17.16.040(B)(##) have been complied with.
- C. If more than one site inspection is required to obtain approval, an additional inspection fee, as established by City Council resolution, shall be charged and paid before a license can be issued.
- D. If all requirements for approval are satisfied, the license shall be issued by the finance director prior to start of operations.

5.70.040 Renewal

- A. The Collective Garden Safety License shall be renewed annually. License renewal applications shall include the following information:
 - i. Completed renewal application form;
 - ii. License renewal fee as established by City Council resolution;
 - iii. Contact person name, address, telephone number (both cell telephone and land line) and e-mail address;
 - iv. Verification of an active account to provide electricity with the Snohomish County Public Utility District No. 1;
 - v. Verification of an active account to provide water and sanitary sewer service with the Alderwood Water & Wastewater District;
- B. License renewal applications shall only be approved following a site inspection and verification that all City requirements for a medical cannabis collective garden have been met. If more than one site inspection is required, an additional inspection fee, as established by City Council resolution, shall be charged and paid before a license renewal can be approved and issued.

5.70.050 Appeal and hearing

Any person aggrieved by the action of the city in denying, refusing to renew, or revoking any license under this chapter shall have the right to appeal such action following the procedure set forth in MMC 5.04.150.

Section 6. Findings of Facts and Conclusions. In support of this ordinance the Mukilteo City Council adopts the Findings of Fact and Conclusions as shown on Exhibit B attached to this ordinance and incorporated herein by reference as if set forth in full.

Section 7. Severability. If any section, subsection, clause, sentence, or phrase of this ordinance should be held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 8. Authority to make necessary corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener’s clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 9. Conflict. In the event that there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

Section 10. Effective Date. The ordinance shall take effect and be in full force five (5) days after publication of the attached Summary which is hereby approved.

PASSED by the City Council and APPROVED by the Mayor this ##th day of January, 2012.

CITY OF MUKILTEO

Mayor Joe Marine

ATTEST/AUTHENTICATED:

Christina J. Boughman, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Angela S. Belbeck

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL: January ##, 2012
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO: #####

ORDINANCE NO. ####

AN ORDINANCE OF THE CITY OF MUKILTEO, WASHINGTON, RELATING TO LAND USE AND ZONING AND LICENSING; ALLOWING MEDICAL CANNABIS COLLECTIVE GARDENS AS A PERMITTED LAND USE; AMENDING SECTION 17.08.020 MMC - DEFINITIONS; AMENDING SECTION 17.16.040 MMC – PERMITTED, CONDITIONAL, TEMPORARY AND INTERIM USES; CREATING A NEW CHAPTER 5.70 MMC – MEDICAL CANNABIS COLLECTIVE GARDENS SAFETY LICENSE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this ordinance will be mailed upon request.

APPROVED by the City Council at their meeting of January #, 2012

City Clerk, Christina Boughman

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Exhibit A

17.16.040 Permitted use matrix.

USE	RESIDENTIAL							COMMERCIAL									INDUSTRIAL					PUBLIC		
	RD 12.5	RD 12.5(S)	RD 9.6	RD 9.6(S)	RD 8.4	RD 7.5	RD 7.2	WFB	MRD	MR	CB(S)	CB(S)-2	PCB(S)	DB	CB	PCB	WMU ¹	BP	IP	PI	LI	HI	PSP ²	OS ⁴⁰
Other																								
Medical Cannabis Collective Garden^{##}																								

- P = Permitted Use
- C = Conditional Use
- T = Temporary Use
- I = Interim Use
- Blank = Not Allowed

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