

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adopting Ordinance No. 643 Adopting as a Permitted Land Use Collective Gardens for the Growing and Distribution of Medical Cannabis, Amending Chapter 20.40 of the Shoreline Municipal Code and Declaring an Emergency
DEPARTMENT:	City Attorney's Office / Planning and Community Development
PRESENTED BY:	Ian Sievers, City Attorney / Paul Cohen, Planning Manager
ACTION:	<input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion

PROBLEM/ISSUE STATEMENT:

On January 9, 2012 the City Council adopted permanent regulations for the licensing of MMCGs (Ordinance No. 625) but decided to extend the six-month interim regulations related to the development code. This was anticipating that the State Legislature would revisit and clarify the MMCGs regulations during the 2012 legislative session. The Legislature did not revisit the topic and at this point the City's ability to extend the interim regulations again has ended. The current interim development code regulations expire on July 18, 2012.

Ordinance No. 643 provides for the adoption of the permanent development code regulations by amending Chapter 20.40 of the Shoreline Municipal Code by identifying the permitted land uses for collective gardens for the growing and distribution of medical cannabis. The ordinance also declares an emergency so that that the regulations can become effective prior to the expiration of the interim regulations on July 18.

FINANCIAL/RESOURCE IMPACT

To date five MMCGs have obtained the license generating a total \$2,997 in licensing revenue. This revenue helps to offset the additional staff time for license processing and issuances by the City Clerk's Office and the additional police time allocated for patrol and enforcement of City regulations. Additionally the City has received just over \$5,300 in 2012 sales tax revenue related to the MMCG's through April 2012.

RECOMMENDATION

The City Council should adopt Ordinance No. 643, establishing permanent Development Code regulations, prior to the July 18, 2012 moratorium expiration date.

Approved By: City Manager **JU** City Attorney **IS**

ATTACHMENTS

Attachment A – Ordinance No. 643

BACKGROUND

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. Ordinance No. 611 also scheduled a public hearing on the moratorium and interim regulations for September 12, 2011. The Council amended the moratorium September 12, 2011, reducing the space between collective gardens or delivery sites from 2,000 to 1,000 feet, and directed staff to begin the public process to study and recommend permanent regulations.

On December 1, 2011, the Planning Commission held a public hearing and made its recommendations on the permanent regulations and amendments to the Development Code. The City Council held a discussion of the Planning Commission recommendations on January 3, 2012. The January 3 staff report can be found at the following link:

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

On January 9, 2012 the City Council adopted permanent regulations for the licensing of MMCGs (Ordinance No. 625) but decided to extend the six-month interim regulations related to the development code. This was anticipating that the State Legislature would revisit and clarify the MMCGs regulations during the 2012 legislative session. The Legislature did not revisit the topic and at this point the City's ability to extend the interim regulations again has ended. The current interim development code regulations expire on July 18, 2012.

The permanently adopted licensing regulations adopted on January 9, 2012, in Ordinance No. 625, are:

- 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. 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 felony convictions of state or federal 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.

- B. All premises or vehicles used or operated by the Collective Garden shall have no greater aggregate quantities of useable cannabis or cannabis plants than are allowed under RCW 69.51A.085.
- C. 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.
- D. No cannabis may be delivered to anyone other than a qualifying patient participating in the collective garden or that patient's designated provider.
- E. 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.
- F. Areas where cannabis is grown, stored or dispensed must be provided with ventilation systems so that no odors are detectable off the premises.
- G. No minors shall be permitted on any collective garden premises unless accompanied by a parent or guardian.
- H. Consumption of cannabis, products containing cannabis or alcohol on the premises is prohibited.
- I. The premises shall be closed to any distribution of cannabis between the hours of 10 p.m. and 7 a.m.
- J. Annual Regulatory License Fee is \$599.50 currently for 2012.

Currently there are four MMCGs that have been licensed to operate in the City of Shoreline.

- A Green Cure Wellness Center, 910 N. 145th Street
- Green Hope Patient Network, 15021 Aurora Avenue North
- Pacific Northwest Medical, 19926 Aurora Avenue North
- Sea-Shore Collective, 17517 15th Avenue NE

A fifth collective garden is in the process of applying for their regulatory license: Emerald City Compassion Center d/b/a Emerald Gardens, 16053 Aurora Avenue North.

DISCUSSION

Ordinance No. 643, Attachment A, proposes that the following regulations be adopted permanently. These primarily mirror the regulations that were adopted in the interim regulations.

- 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, NCB, 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 the collective garden's delivery site.
- D. Any transportation or delivery of cannabis from a collective garden shall be conducted by the garden members or their designated providers so that quantities of medical cannabis allowed under RCW 69.51A.085 are never exceeded.

It is proposed that the statutory section on quantities in subsection D of the interim regulations (RCW 69.51A.085) be amended in the permanent regulation to reference RCW 69.51A.040, the section that sets quantity limits for patients and designated providers. This section lists cannabis 'product' as well as plants and useable cannabis. As stated in this subsection of the ordinance it is assumed that most gardens will be operated by designated providers. This is considered to be an inconsistency between sections of the state statute. The quantity of cannabis product that can be possessed is the amount that could reasonably be produced with the amount of useable cannabis allowed.

RESOURCE/FINANCIAL IMPACT:

To date five MMCGs have obtained the license generating a total \$2,997 in licensing revenue. This revenue helps to offset the additional staff time for license processing and issuances by the City Clerk's Office and the additional police time allocated for patrol and enforcement of City regulations. Additionally the City has received just over \$5,300 in 2012 sales tax revenue related to the MMCG's through April 2012.

RECOMMENDATION

The City Council should adopt Ordinance No. 643, establishing permanent Development Code regulations, prior to the July 18, 2012 moratorium expiration date.

ORDINANCE NO. 643

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, ADOPTING AS A PERMITTED LAND USE COLLECTIVE GARDENS FOR THE GROWING AND DISTRIBUTION OF MEDICAL CANNABIS, AMENDING CHAPTER 20.40 OF THE SHORELINE MUNICIPAL CODE AND DECLARING AN EMERGENCY

WHEREAS, Chapter 69.51A RCW 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, with passage of Ordinance No. 625 on January 9, 2012, the City Council adopted a new collective garden regulatory license and extended the interim land use regulations to July 18, 2012 to allow time to study any new legislation regarding medical cannabis before proceeding to act on permanent land use regulations regarding collective gardens; now, therefore,

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

Section 1. Amendment. SMC 20.40.130 is amended as set forth in Exhibit A, attached hereto and incorporated herein.

Section 2. New Section. A new section, Shoreline Municipal Code 20.40.275, *Collective Gardens*, is hereby adopted as follows:

20.40.275 Collective Gardens

- 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 1000 feet of schools and not within 1000 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 RCW 69.51A.040 are never exceeded.

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4. Effective Date and Publication. The Shoreline City Council finds that emergency exists requiring the immediate enactment of this ordinance for the preservation of the public health, safety and welfare. This ordinance shall take effect immediately upon passage and the title of this ordinance shall be published as an approved summary of the ordinance in the official newspaper of the City.

PASSED BY THE CITY COUNCIL ON JULY 16, 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

EXHIBIT A

20.40.130 Nonresidential uses.

NAICS #	SPECIFIC LAND USE	R4- R6	R8- R12	R18- R48	NB & O	CB & NCBD	MUZ & I
RETAIL/SERVICE TYPE							
532	Automotive Rental and Leasing					P	P
81111	Automotive Repair and Service				P	P	P
451	Book and Video Stores/Rental (excludes Adult Use Facilities)			C	P	P	P
513	Broadcasting and Telecommunications						P
812220	Cemetery, Columbarium	C-i	C-i	C-i	P-i	P-i	P-i
	Churches, Synagogue, Temple	C	C	P	P	P	P
	<u>Collective Gardens</u>				<u>P-i</u>	<u>P-i</u>	<u>P-i</u>
	Construction Retail, Freight, Cargo Service						P
	Daycare I Facilities	P-i	P-i	P	P	P	P
	Daycare II Facilities		C	P	P	P	P
722	Eating and Drinking Establishments (Excluding Gambling Uses)	C-i	C-i	C-i	P-i	P-i	P-i
812210	Funeral Home/Crematory	C-i	C-i	C-i		P-i	P-i
447	Gasoline Service Stations				P	P	P
	General Retail Trade/Services				P	P	P
811310	Heavy Equipment and Truck Repair						C
481	Helistop			S	S	S	C
485	Individual Transportation and Taxi					C	S
812910	Kennel or Cattery					C-i	P-i
	Library Adaptive Reuse	P-i	P-i	P-i	P-i	P-i	P-i
31	Light Manufacturing						S
441	Motor Vehicle and Boat Sales						P
	Professional Office			C	P	P	P
5417	Research, Development and Testing						P
	Shipping Containers					C	C
484	Trucking and Courier Service					P-i	P-i

541940	Veterinary Clinics and Hospitals				P-i	P-i	P-i
	Warehousing and Wholesale Trade						P
	Wireless Telecommunication Facility	P-i	P-i	P-i	P-i	P-i	P-i

P = Permitted Use S = Special Use
C = Conditional Use -i = Indexed Supplemental Criteria