



Legislation Text

File #: 2015-0169, **Version:** 1

Clerk 04/22/2015

AN ORDINANCE renewing for six-months an existing moratorium on the establishment or location of medical marijuana dispensaries and collective gardens asserted to be or actually authorized under Chapter 181, Laws of Washington 2011, and chapter 69.51A RCW.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings:

A. King County has authority to establish and renew a moratorium under the Growth Management Act, as set forth in RCW 36.70A.390, to preclude approval of a particular land use and to facilitate its interest in studying the impacts of that land use.

B. Washington state Initiative Measure No. 692, approved in 1998, created an affirmative defense to the charge of possession of marijuana for qualifying patients.

C. The 2011 state Legislature passed Engrossed Second Substitute Senate Bill 5073 and Governor Christine Gregoire signed the bill while vetoing several of its sections, including those authorizing the operation of medical marijuana dispensaries. Engrossed Second Senate Bill 5073 became Chapter 181, Laws of Washington 2011 and took effect July 22, 2011.

D. The 2011 act provided for a system of "collective gardens," within which qualifying patients could produce, grow and deliver marijuana for medical use under certain conditions, and which allowed qualifying patients to designate a "designated provider," who was authorized to distribute marijuana to one patient within any fifteen-day period.

E. Washington state Initiative Measure No. 502, approved in 2012, established a regulatory system for adult use of recreational marijuana and regulation of the production, processing, and sales of marijuana.

Initiative 502 did not amend the medical marijuana laws.

F. A growing number of medical marijuana collective gardens and dispensaries asserted to be or actually authorized by the 2011 act are currently in operation in unincorporated King County. Due to the quasi-criminal nature of these facilities, data collection is very difficult and the location and number of these facilities is not clear.

G. Over the past several years, specific concerns have been raised by community members regarding the operation of medical marijuana collective gardens and dispensaries in unincorporated King County.

H. The acceptance of development applications proposing additional collective gardens or dispensaries may allow development that is incompatible with nearby existing land uses in unincorporated King County.

I. For these reasons and others, Ordinance 17726 established a zoning moratorium on medical marijuana collective gardens and dispensaries for a twelve month period that was scheduled to expire on December 16, 2014.

J. Ordinance 17940 renewed the zoning moratorium on medical marijuana collective gardens and dispensaries for a six month period scheduled to expire on June 16, 2015.

K. In April 2015, the Washington state Legislature enacted Second Substitute Bill 5052, which incorporates distribution of medical marijuana products into the recreational marijuana regulatory system.

L. The 2015 act places creates a strictly limited marijuana cooperative system and places additional limits on the allowance for collective gardens that has previously been utilized by some citizens to produce and distribute marijuana , effective July 1, 2016.

M. There is a risk that medical marijuana collective gardens and dispensaries might continue to locate and operate in unincorporated King County between the end of the current moratorium, and the 2015 act's July 1, 2016 effective date.

N. The 2015 act requires the Washington state Liquor and Cannabis Board to establish standards for medical marijuana endorsements within the recreational system, and requires the Washington state Department of Health to adopt rules to establish standards for medical marijuana health care providers and patients.

O. As part of these new rules, enforcement mechanisms for medical marijuana dispensaries and collective gardens that do not comply with the 2015 act will also be determined.

P. It is in the public interest to renew the zoning moratorium on medical marijuana collective gardens and dispensaries in order to avoid the establishment of legal nonconforming uses in unincorporated King County during the interim period while the state adopts new rules for medical marijuana endorsements and to determine whether a local enforcement mechanism for medical marijuana dispensaries and collective gardens is necessary.

SECTION 2. A. A six-month renewed moratorium commencing on June 16, 2015, is declared prohibiting the location, establishment or expansion of any medical marijuana collective garden or medical marijuana dispensary in unincorporated King County, whether for profit or not-for-profit, asserted to be authorized or actually authorized under Chapter 181, Laws of 2011, and chapter 69.51A RCW. A building permit, occupancy permit, public health approval or development permit of any kind shall not be issued for any of the purposes or activities prohibited by this section. Any land use approvals or other permits for any of these operations that are issued as a result of or by use of vague or deceptive descriptions during the moratorium are null and void, and without legal force or effect.

SECTION 3. For the purposes of section 2 of this ordinance:

A. "Medical marijuana collective garden" means a location or garden including, but not limited to, its associated equipment, supplies, cannabis plants, seeds and cuttings, that is used by qualified patients to share responsibility for acquiring and supplying the resources required to produce, process, transport and deliver cannabis for medical use, as regulated under chapter 69.51A RCW and subject to the limitations in chapter 69.51A RCW. A person who is operating under the limits of a Washington state Liquor Control Board license

to operate as a recreational marijuana producer, processor or retailer shall not be deemed to be a medical marijuana collective garden; and

B. "Medical marijuana dispensary" means any business, agency, organization, cooperative, network, consultation operation or other group or person, including its associated premises and equipment, which has for its purpose or which is used to grow, select, measure, package, label, deliver, sell or otherwise transfer, for consideration or otherwise, marijuana for medical use. A person who is the designated provider for only one qualified patient during any fifteen-day period and who complies with chapter 69.51A RCW or a person who is properly operating under the limits of a Washington state Liquor Control Board license to operate as a recreational marijuana producer, processor or retailer shall not be deemed a medical marijuana dispensary.

SECTION 4. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.