



Legislation Text

File #: 2013-0530, **Version:** 1

Clerk 12/12/2013

AN ORDINANCE declaring a one-year 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; and declaring an emergency.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings:

A. King County has authority to establish a moratorium under the Growth Management Act 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 November 3, 1998, created an affirmative defense to the charge of possession of marijuana for qualifying patients.

C. The county acknowledges the right of qualified health care professionals to recommend the medical use of marijuana, and acknowledges the affirmative defense available to qualifying patients and designated providers from a criminal possession of marijuana charge.

D. 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. This became, Chapter 181, Laws of Washington 2011 ("the act").

E. The act took effect July 22, 2011.

F. The act provides for and places limits on "collective gardens," within which qualifying patients may

produce, grow and deliver marijuana for medical use under certain conditions, and authorizes qualifying patients to designate a "designated provider," who may provide marijuana to one patient within any fifteen-day period.

G. A growing number of medical marijuana collective gardens and dispensaries asserted to be or actually authorized by the act are currently in operation in unincorporated King County.

H. Over the past several years, specific concerns have been raised within the community related to the operation of medical marijuana collective gardens and dispensaries in unincorporated King County.

I. 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.

J. On November 6, 2012, the voters of the state of Washington passed Washington state Initiative Measure No. 502, providing a framework under which recreational marijuana may be produced, processed and retailed under a state licensing system.

K. The Washington state Liquor Control Board ("WSLCB") has adopted administrative rules for licensing recreational marijuana businesses that are scheduled to become effective on November 16, 2013.

L. The Seattle city council approved Council Bill No. 17744 ("the bill") on October 7, 2013. The bill limits the zones in the city of Seattle in which marijuana may be produced, processed and sold, and applies the same standards to all entities involved in the production, processing, distribution and sale of marijuana under either Washington state Initiative Measure No. 692 or 502.

M. The bill includes a provision requiring all preexisting marijuana businesses, establishments, producers, processors, sellers and distributors to comply with its terms within twelve months of its effective date. The extent to which that provision will require existing businesses and citizens to close and relocate with potential impact on unincorporated King County cannot be determined at this time.

N. The Washington state Legislature adopted a budget calling for the Washington state Liquor Control Board to work with the state Department of Health and the state Department of Revenue to develop

recommendations regarding the interaction of medical marijuana regulations and the provisions of Washington state Initiative Measure No. 502.

O. The Washington state Legislature called for these recommendations to be submitted to the appropriate legislative committees by January 1, 2014.

P. It is in the public interest that any zoning and development regulations are consistent with state law.

Q. It in the public interest to establish a zoning moratorium on medical marijuana collective gardens and medical marijuana dispensaries for a twelve-month period in order to investigate whether additional regulation is necessary.

R. It is necessary that this ordinance go into effect immediately in order to avoid the establishment of a potentially large number of additional collective gardens and medical marijuana dispensaries in the interval before executive signature.

SECTION 2. A. A one-year moratorium commencing upon the effective date of this ordinance 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 or approval 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 error or by use of vague or deceptive descriptions during the moratorium are null and void, and without legal force or effect.

B. Within six months after the effective date of this ordinance, the executive shall transmit to the council a work plan that sets a timeline for:

1. Reviewing the impacts of existing medical marijuana collective gardens and medical marijuana dispensaries and Washington state Liquor Control Board licensed recreational marijuana businesses in unincorporated King County;

2. Review of proposed or adopted state legislation intended to address the interaction between Chapter 181, Laws of Washington 2011 and Washington state Initiative Measure No. 502; and

3. Consideration of whether adoption of an appropriate land use regulation would address the impacts and concerns identified in section 1 of this ordinance and the work plan.

C. A paper copy and an electronic copy of the work plan shall be filed with the clerk of the council, who shall retain the paper copy and forward electronic copies to all councilmembers.

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 qualifying 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 marijuana producer, marijuana processor or marijuana 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 marijuana producer, marijuana processor or marijuana 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 or should any portion of this ordinance be pre-empted by state or federal law or

regulation, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

SECTION 5. The county council finds as a fact and declares that an emergency exists and that this ordinance is necessary for the immediate preservation of public peace, health or safety or for the support of county government and its existing public institutions.