

TO: City Council

FROM: John Marchione, Mayor

DATE: August 20, 2013

SUBJECT: ORDINANCE EXTENDING INTERIM LAND USE REGULATIONS AND OFFICIAL CONTROLS PURSUANT TO RCW 35A.63.220 AND RCW 36.70A.390

I. RECOMMENDED ACTION

Approve a six-month extension to the interim land use regulations and official controls prohibiting medical marijuana collective gardens and other marijuana related facilities and uses.

II. DEPARTMENT CONTACT PERSON

Rob Odle, Director, Planning and Community Development, 425-556-2417
Alaric Bien, Senior Planner, Human Services, 425-556-2458

III. DESCRIPTION/BACKGROUND

On November 30, 1998, the voters approved Initiative 692 which allowed an affirmative defense for the possession of medical marijuana for qualifying patients. This was subsequently codified in state statute. During the 2011 legislative session, the Legislature passed a bill which included the legalization of medical marijuana production, processing, and dispensing facilities. Subsequent to passage of the bill, the Governor vetoed many portions of the bill, including those portions dealing with dispensaries; however, one portion dealing with collective gardens was not vetoed. Collective gardens allow qualifying patients or their designee to grow, transport, and deliver marijuana for medical use. This portion of the legislation became law on July 22, 2011.

This law also allowed for jurisdictions to adopt zoning requirements for collective garden facilities, but left many issues unresolved. Before Redmond moved to adopt any regulations for these facilities, it was appropriate to get clarity at the state level and to study the potential types of regulations that would have been needed. On August 16, 2011, the City Council unanimously enacted a moratorium on the location, establishment, licensing, and permitting of medical marijuana or cannabis collective gardens. This was extended on February 7, 2012, and again on July 31, 2012, as the State had not enacted their final regulations. In the interim, staff continued to research the potential impact of collective garden facilities. In other states where similar situations exist, we have seen that some jurisdictions have experienced negative impacts from these facilities.

On November 6, 2012, Initiative 502 was passed by the voters of the State of Washington, providing a framework under which marijuana producers, processors, and retailers can become licensed by the State of Washington. Under Initiative 502, the Washington State Department of Health was tasked with the responsibility to adopt regulations governing the licensing and operation of marijuana producers, processors, and retailers. The regulations have not yet been finalized.

On February 19, 2013, the City Council adopted interim land use regulations prohibiting medical cannabis collective gardens in all zoning districts of the city, and prohibiting the location of other marijuana-related facilities and use. This allowed time for the continued study of issues in the siting of all marijuana facilities as well as allowing time for the adoption of regulations at the state level. The State is projecting that the regulations will be issued later this year, after expiration of Redmond's interim regulations. Therefore, staff recommends that the interim regulations be extended so that any ordinances considered by the City of Redmond would be consistent with what is enacted by the State.

Procedurally, in order for the interim regulations to be extended, the City Council must conduct a public hearing and vote to extend the interim regulations prior to their expiration. Staff has published notice for the public hearing to be conducted on August 20, 2013. Once the public hearing is complete, the Council may vote to extend or not extend the interim regulations for an additional six months. During the next six months, staff will continue to monitor state actions and prepare appropriate zoning and other regulations for marijuana production, processing, and retailing consistent with state statute. Should there be sufficient reason to extend the interim regulations again, the Council must make that determination before the extended interim regulations expire.

IV. IMPACT

Without the extension of interim zoning regulations, the City will not be able to maintain current regulations on the locations and mitigation of impacts stemming from medical marijuana collective gardens or marijuana production, processing, and retailing facilities.

V. ALTERNATIVES

The City could choose not to extend the interim zoning regulations, and in that case there is the potential for the siting of medical marijuana collective gardens and marijuana production, processing, and retailing facilities within the city limits.

VI. TIME CONSTRAINTS

The current interim zoning regulations will expire on September 2, 2013.

City Council

RE: ORDINANCE EXTENDING INTERIM LAND USE REGULATIONS AND OFFICIAL CONTROLS
PURSUANT TO RCW 35A.63.220 AND RCW 36.70A.390

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VII. LIST OF ATTACHMENTS

Attachment A: Ordinance

/s/
Robert G. Odle, Director, Planning and Community Development

8/2/2013
Date

Approved for Council Agenda: /s/
John Marchione, Mayor

8/9/2013
Date

ATTACHMENT A

NON-CODE

**CITY OF REDMOND
ORDINANCE NO. _____**

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, EXTENDING INTERIM LAND USE REGULATIONS AND OFFICIAL CONTROLS FOR MARIJUANA-RELATED USES ENACTED BY ORDINANCE NO. 2682 PURSUANT TO RCW 35A.63.220 AND RCW 36.70A.390 UNTIL MARCH 2, 2014; ENTERING LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, Ordinance No. 2682 of the City of Redmond adopted interim land use regulations and official controls adding new marijuana-related definitions to RZC 21.78 and adding a new RZC Chapter 21.41 prohibiting medical cannabis collective gardens in all zoning districts of the city and prohibiting the location of other marijuana-related facilities and uses until the State adopts licensing regulations and the City adopts zoning regulations; and

WHEREAS, the interim regulations and controls will expire on September 2, 2013, unless permanent regulations are adopted or unless the interim regulations and controls are extended; and

WHEREAS, the Washington State Liquor Control Board's work on adopting regulations governing the licensing and operation of marijuana producers, processors, and retailers will not be complete prior to expiration of Redmond's interim regulations and controls and the City's planning staff has therefore

recommended that the interim regulations be extended for an additional six months; and

WHEREAS, City planning staff have been continuing to work on draft regulations governing the location and operation of marijuana-related facilities and uses within the city, but require additional time to review and evaluate the state's permanent regulations when those are adopted; and

WHEREAS, unless the interim regulations and controls are extended, medical cannabis collective gardens, marijuana-related facilities and uses may be established within the City of Redmond while the City lacks the necessary tools to ensure that the location is appropriate and that the secondary impacts of such gardens, facilities, and uses are minimized and mitigated; and

WHEREAS, the Redmond City Council held a public hearing on extension of the interim regulations and controls on August 20, 2013, and after considering all testimony given at the hearing, determined that an extension was justified and in the best interests of the city.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings. The findings of the Redmond City Council in Ordinance No. 2682 are hereby re-adopted as justification for the extension of the interim regulations and

controls. The recitals set forth above are hereby adopted as additional findings of the Redmond City Council justifying the extension.

Section 2. Interim Regulations and Controls Extended.

The interim land use regulations and official controls set forth in Ordinance No. 2682 shall be extended for a period of six months, i.e., through March 2, 2014, and shall automatically expire on that date unless the same is extended, as provided in RCW 35A.63.220 and RCW 36.70A.390, or unless terminated sooner by the Redmond City Council.

Section 3. Direction to Staff and Planning Commission.

The Mayor or his designee is hereby authorized and directed to continue to develop draft permanent regulations regarding marijuana-related uses to replace the interim regulations and land use controls set forth in Ordinance No. 2682. The permanent regulations shall be referred to the Redmond Planning Commission for review and recommendation for inclusion in the Redmond Zoning Code.

Section 4. Transmittal to Department of Commerce.

Pursuant to RCW 36.70A.106, this ordinance shall be transmitted to the Washington State Department of Commerce, as required by law.

Section 5. 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 of any other section, sentence, clause, or phrase of this ordinance.

Section 6. Effective Date. This ordinance shall take effect five days after its publication, or publication of a summary thereof, in the City's official newspaper, or as otherwise provided by law.

ADOPTED by the Redmond City Council this _____ day of
_____, 2013.

CITY OF REDMOND

JOHN MARCHIONE, MAYOR

ATTEST:

MICHELLE M. MCGEHEE, MMC, CITY CLERK

(SEAL)

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

JAMES HANEY, CITY ATTORNEY

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