CITY OF REDMOND ORDINANCE NO.2612

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, IMPOSING A MORATORIUM ON THE LOCATION, ESTABLISHMENT, LICENSING, AND PERMITTING OF MEDICAL MARIJUANA OR CANNABIS COLLECTIVE GARDENS; SETTING A DATE FOR A PUBLIC HEARING ON THE MORATORIUM; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY AND ESTABLISHING AN IMMEDIATE 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 to the charge of possession of marijuana (cannabis) for "qualifying patients" who use medical marijuana; and

WHEREAS, in this year's session, the Washington State Legislature passed a bill (E2SSB 5073) that would have legalized medical marijuana or cannabis dispensaries, production facilities, and processing facilities by providing for the licensing thereof; and

WHEREAS, on April 29, 2011, Governor Gregoire vetoed those portions of E2SSB 5073 that would have legalized and required licensing of medical marijuana or cannabis dispensaries, processing facilities, and production facilities; and

WHEREAS, E2SSB 5073 also contained a provision authorizing "collective gardens," which would allow qualifying patients the

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ability to produce, grow, transport, and deliver cannabis for medical use, and that provision was approved by Governor Gregoire and becomes 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, as part of the process for the adoption of zoning regulations, the land use impacts of collective gardens must be identified; and

WHEREAS, because the land use impacts of growing medical marijuana have been experienced in other jurisdictions, the City of Redmond may look to the experiences of other jurisdictions in drafting zoning regulations for collective gardens; and

WHEREAS, many jurisdictions around the country that have approved medical marijuana uses have experienced land use impacts, such as:

- conversion of residential uses into marijuana cultivation and processing facilities, removing valuable housing stock in a community;
- degrading neighborhood aesthetics due to shuttered up homes, offensive odors; increased night-time traffic; parking issues; loitering from potential purchasers looking to buy from a collective member;

- environmental damages from chemicals being discharged into surrounding and off-site soil and storm and sanitary sewer systems;
- serious risk of fire hazard due to overloaded service connections used to operate grow lights and fans;
- improper ventilation leading to high levels of moisture and mold;
- illegal structural modifications; and
- criminal issues such as home invasions and burglaries at cannabis facilities, theft, and property damage;

and

WHEREAS, unless a moratorium is imposed, collective gardens 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 facilities are minimized and mitigated; and

WHEREAS, the Redmond City Council deems it to be in the public interest to establish a moratorium on the location, establishment, licensing, and permitting of medical marijuana or cannabis collective gardens until the City can consider all of the land use impacts of collective gardens, draft regulations, hold hearings, and adopt new regulations on the subject in light of the new legislation; and

WHEREAS, Article 11, Section 11 of the Washington State Constitution authorizes the Redmond City Council to adopt moratoria, and RCW 35A.63.220 and RCW 36.70A.390 provide that such moratoria may be adopted for a period not exceeding six months upon compliance with the procedures set forth in said statutes.

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

Section 1. <u>Classification</u>. This ordinance is of a specific and temporary nature and shall not be codified.

Section 2. Preliminary Findings. The recitals set forth above are hereby adopted as the Redmond City Council's preliminary findings in support of the moratorium imposed by this ordinance. The Redmond City Council may, in its discretion, adopt additional findings after the conclusion of the public hearing referenced in Section 5 below.

Section 3. Moratorium Imposed. Pursuant to the provisions of Article 11, Section 11 of the Washington State Constitution, RCW 35A.63.220, and RCW 36.70A.390, a moratorium is hereby enacted prohibiting the location, establishment, licensing, and permitting of any medical marijuana or cannabis collective garden within the Redmond city limits. No building permit, electrical permit, plumbing permit, occupancy permit, or other development approval shall be issued by the City for any

such collective garden and no application for any such permit shall be accepted while this moratorium is in effect. No business license shall be granted and no business license application shall be accepted for any such collective garden while this moratorium is in effect. As used in this ordinance, the terms "cannabis," "marijuana," and "collective garden" shall have the meanings given those terms in chapters 69.50 and 69.51A RCW, and E2SSB 5073.

Section 4. Effective Period for Moratorium. The moratorium set forth in this ordinance shall be in effect for a period of six months from the date this ordinance is passed 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 5. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the Redmond City Council hereby sets a public hearing for October 4, 2011, at 7:30 p.m. or as soon thereafter as the business of the City Council shall permit in order to take public testimony and to consider adopting further findings justifying the imposition of the moratorium set forth in Section 2 above.

Section 6. Referral to Staff and Planning Commission.

The Mayor or his designee is hereby authorized and directed to develop draft zoning and licensing regulations regarding medical

marijuana or cannabis collective gardens. The zoning regulations shall be referred to the Redmond Planning Commission for review and recommendation for inclusion in the Redmond Zoning Code.

Section 7. Transmittal to Department. Pursuant to RCW 36.70A.106, this ordinance shall be transmitted to the Washington State Department of Commerce, as required by law.

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

Section 9. Effective Date. For the reasons set forth in the recitals of this ordinance, the Redmond City Council hereby finds and declares that an emergency exists which necessitates that this ordinance become effective immediately in order to preserve the public health, safety and welfare, and to prevent the potential for local environmental degradation. This ordinance shall become effective immediately upon passage. The Redmond City Clerk is directed to publish a summary of this ordinance at the earliest possible publication date.

ADOPTED by the Redmond City Council this 16th day of August, 2011.

CITY OF REDMOND

RICHARD COLE, MAYOR PRO TEM

ATTEST:

(SEAL)

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY:

HANEY, CITY ATTORNEY

FILED WITH THE CITY CLERK:

August 10, 2011

PASSED BY THE CITY COUNCIL: August 16, 2011

SIGNED BY THE MAYOR:

August 16, 2011

PUBLISHED:

August 22, 2011

EFFECTIVE DATE:

August 27, 2011

ORDINANCE NO. 2612

ADOPTED 6-0: Carson, Cole, Margeson, Myers, Stilin and Vache