

TO:

City Council

FROM:

John Marchione, Mayor

DATE:

February 7, 2012

SUBJECT:

ORDINANCE EXTENDING A MORATORIUM ON THE LOCATION, ESTABLISHMENT, LICENSING AND PERMITTING OF MEDICAL

MARIJUANA OR CANNABIS COLLECTIVE GARDENS

### I. RECOMMENDED ACTION

Approve a six-month extension to the moratorium on the location, establishment, licensing, and permitting of medical marijuana or cannabis collective gardens in order to allow for the development of zoning and other regulations.

### II. DEPARTMENT CONTACT PERSONS

Rob Odle, Director, Planning & Community Development, 425-556-2417

## 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 new law also allows for jurisdictions to adopt zoning requirements for collective garden facilities, but left many issues unresolved. Before Redmond should adopt any regulations for these facilities, it is appropriate to get clarity at the state level and to study the potential types of regulations that may be needed. Such study should look at the experiences of other nearby jurisdictions, as well as across the county. In other states where similar situations exist, we have seen that some jurisdictions have experienced negative impacts from these facilities. Staff proposed a moratorium in order to allow sufficient time to study the issue of zoning for collective gardens.

On August 16, 2011, the City Council unanimously enacted the recommended moratorium. This moratorium will expire on February 16, 2012, if not extended. Since the enactment of the moratorium, the state legislature has begun the process of revising the governing statutes for collective gardens but their work will not be complete prior to the expiration of Redmond's moratorium. Therefore, staff recommends that the

Mayor Marchione and City Council

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moratorium 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 moratorium to be extended, the City Council must conduct a public hearing and vote to extend the moratorium prior to its expiration. Staff has published notice for the public hearing to be conducted on February 7, 2012. Once the public hearing is complete, the Council may vote to extend or not extend the moratorium for an additional six months. During the next six months, staff will monitor state actions and prepare appropriate zoning and other regulations for medical marijuana collective gardens consistent with state statute. Should there be sufficient reason to extend the moratorium again, the Council must make that determination before the extended moratorium runs out.

### IV. IMPACT

Without the enactment of zoning regulations or an extension to the moratorium, the City would not be able to regulate the locations and mitigation of impacts stemming from medical marijuana collective gardens.

#### V. ALTERNATIVES

The City could chose to not extend the moratorium and in that case there is the potential for the siting of medical marijuana collective gardens within the city limits.

#### VI. TIME CONSTRAINTS

Without an extension, the current moratorium will expire on February 16, 2012. Extension of the moratorium will prevent the submittal for any vested permit application for a medical marijuana collective garden.

#### VII. LIST OF ATTACHMENTS

Attachment A: Proposed Ordinance

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Approved for Council Agenda:

John Marchione, Mayor

# ATTACHMENT A

NON-CODE ORDINANCE

CITY OF REDMOND ORDINANCE NO.

ORDINANCE OF THE CITY OF REDMOND, ANWASHINGTON, EXTENDING THE MORATORIUM ENACTED ORDINANCE NO. 2612 ON THE LOCATION, ESTABLISHMENT, LICENSING, AND PERMITTING OF MEDICAL MARIJUANA OR CANNABIS COLLECTIVE ADDITIONAL GARDENS FOR ANSIX MONTHS; ADOPTING FINDINGS ΙN SUPPORT THE OF EXTENSION; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE

WHEREAS, Ordinance No. 2612 of the City of Redmond enacted a moratorium on the location, establishment, licensing, and permitting of medical marijuana or cannabis collective gardens; and

WHEREAS, the moratorium will expire on February 16, 2012, unless permanent regulations are adopted or unless the moratorium is extended; and

WHEREAS, since the moratorium was enacted, several events have occurred which have hampered the City's ability to enact permanent regulations, including but not limited to:

a. The decision of the California Court of Appeals in Pack v. City of Long Beach, in which the Court held that local regulations authorizing medical cannabis dispensaries and collective gardens to operate with a permit are in conflict with the prohibition on cannabis possession set forth in federal law; and

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- b. The filing of a statewide initiative to legalize and tax cannabis possession and sales; and
- C. The introduction of SB 6265 in the Washington State

  Legislature, which would revise the current state

  regulations on collective gardens and provide for

  other non-profit patient cooperatives to be

  established, subject to specific authority of local

  jurisdictions; and

WHEREAS, the Washington State Legislature's work on new medical cannabis regulations will not be complete prior to expiration of Redmond's moratorium and the City's planning staff has therefore recommended that the moratorium be extended for an additional six months; and

WHEREAS, unless the moratorium is extended, 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 held a public hearing on extension of the moratorium on February 7, 2012, 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. 2612 are hereby re-adopted as justification for the extension of the moratorium established by that ordinance. The recitals set forth above are hereby adopted as additional findings of the Redmond City Council justifying the extension.

Section 2. Moratorium Extended. Pursuant Article XI, Section 11 of the Washington State Constitution, RCW 35A.63.220, and RCW 36.70A.390, the moratorium enacted by Ordinance No. 2612 prohibiting the location, establishment, licensing, or permitting of any medical marijuana or cannabis collective garden in the City of Redmond is hereby extended for six months, i.e., through August 16, 2012. No building permit, electrical permit, plumbing permit, occupancy permit, or any 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 extended 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 extended moratorium is in effect. As used in this ordinance, the terms "cannabis," "marijuana," and "collective

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garden" shall have the meanings given those terms in chapters 69.50 and 69.51 RCW, as amended.

Section 3. 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 4. 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 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 (5) days after passage and publication of an approved summary consisting of the title, or as otherwise provided by law.

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ADOPTED by the Redmond City	Council this	day of
, 2012.		
	CITY OF REDMOND	
	JOHN MARCHIONE, MAYOR	
ATTEST:		
MICHELLE M. MCGEHEE, MMC, CITY CLE	(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.		