

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6079

AN ORDINANCE extending Ordinance No. 6058 adopting an interim zoning ordinance regulating medical marijuana collective gardens for a period of six months, to be in effect while the City considers the adoption of permanent regulations for medical marijuana collective gardens; providing for severability; and establishing an effective date.

WHEREAS, E2SSB 5073 (the Act) effective on July 22, 2011 amended Chapter 69.51A RCW and authorizes "collective gardens" which allows certain qualifying patients to produce, grow, and deliver marijuana for medical use; and

WHEREAS, federal law prohibits the production, processing and dispensing of medical marijuana products, and strict federal sentencing guidelines enhance the penalties for violations involving more than 99 plants or occurring within 1000 feet of schools; and

WHEREAS state law strictly enhances the penalties for violations of the federal Controlled Substances Act that occur within 1000 feet of a school; and

WHEREAS, the Act authorizes municipalities to exercise local location, health and safety controls for the regulation of collective gardens; and

WHEREAS, the City Council deems it to be in the public interest to establish interim regulations pending local review of the anticipated changes in the law; and

WHEREAS, the acceptance of applications proposing development, establishment, or licensing of collective gardens may allow new uses that are incompatible with nearby existing land uses and lead to erosion of community character and harmony; and

WHEREAS, on May 7, 2012 in response to the legal uncertainty created between state and federal regulation of marijuana, the City Council adopted Ordinance No. 6058 implementing an interim zoning ordinance regulating medical marijuana collective gardens on an interim basis, and adopting findings of fact; and

WHEREAS, under the Growth Management Act (GMA), the City was required to hold a public hearing within 60 days of adopting Ordinance No. 6058, which public hearing was held on July 2, 2012, to consider the interim zoning ordinance regulating medical marijuana collective gardens; and

WHEREAS, on October 8, 2012, information was presented to the City Council regarding the status of the code work to develop permanent regulations for

medical marijuana collective gardens and advising the City Council about recent court rulings upholding cities' zoning authority to regulate and ban medical marijuana collective gardens; and

WHEREAS, Initiative 502 (I-502), seeking to decriminalize marijuana in the state of Washington, is on the November 6, 2012 ballot of the November 6, 2012 General Election, and it is unknown what actions the state or federal governments may take in response to the passage of I-502; and

WHEREAS, Ordinance No. 6058 will, by its terms, expire on November 7, 2012; and

WHEREAS, the extension of the interim regulations of six months in duration for the filing of certain applications for development, establishment or licensing of collective gardens will prevent substantial change until the land areas and the text of development standards applicable to collective gardens is reviewed, and any needed revisions are made to city codes; and

WHEREAS, the City has a compelling interest in the protection of the health and safety of all of its residents, as well as a compelling interest in ensuring that the goals and policies contained within the Comprehensive Plan and other policy/planning documents are fulfilled; and

WHEREAS, on October 22, 2012, the City held a public hearing to consider extending Ordinance No. 6058 for an additional 6 month period; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorizes cities to adopt interim zoning ordinances provided the City Council holds a public hearing on the interim zoning ordinance within 60 days of the commencement of the ordinance; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 further authorizes Washington cities to extend interim zoning ordinances for additional periods of up to six months following a public hearing and adoption of findings of fact; and

WHEREAS, pursuant to BCC 22.02.050 and WAC 197-11-880, the adoption of this ordinance is exempt from environmental review under the State Environmental Policy Act; now, therefore

**THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES
ORDAIN AS FOLLOWS:**

Section 1. Extension of Interim Zoning Ordinance. Ordinance No. 6058 is hereby extended for an additional six month period, unless repealed, extended or modified by the City Council after subsequent public hearing and the entry of additional findings of fact pursuant to RCW 35A.63.220 and RCW 36.70A.390.

Section 2. Severability. Should any provision of this ordinance or its application to any person or circumstance be held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 3. Findings of Fact. The findings contained in this ordinance are hereby adopted as findings of facts to justify extending Ordinance No. 6058 imposing the interim zoning ordinance.

Section 4. Effective Date. This ordinance shall take effect and be in force on November 7, 2012.

Passed by the City Council this 22nd day of October, 2012 and signed in authentication of its passage this 22nd day of October, 2012.

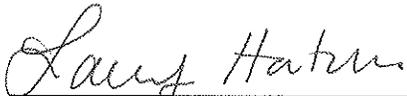
(SEAL)



Conrad Lee
Mayor

Approved as to form:

Lori M. Riordan, City Attorney



Lacey Hatch, Assistant City Attorney

Attest:



Myrna L. Basich, City Clerk

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