1277-ORD
05/07/12

ORIGINAL

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6058

AN ORDINANCE of the City of Bellevue, Washington, adopting interim official zoning controls regarding medical marijuana collective gardens for a period of six months, to be in effect while the City drafts, considers, holds hearings and adopts permanent collective zoning regulations, to be effective immediately upon adoption, scheduling a hearing on the maintenance of the interim zoning ordinance and declaring an emergency.

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, grown and deliver cannabis for medical use; and

WHEREAS, federal law prohibits the production, processing and dispensing of medical cannabis 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 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, pursuant to RCW 36.70A.390 a public hearing must be held within 60 days of the passage of this ordinance; and

WHEREAS, establishment of 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 potential adverse impacts upon the public safety, welfare, and peace, as outlined herein, justify the declaration of an emergency; now therefore,

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

Section 1. Interim Regulation Adopted. Any application for, intake of, review of, or issuance of any permit for the establishment of a collective garden as defined in RCW 69.51A.085 is required to meet the following criteria:

A. An administrative conditional use permit (Part 20.30E of the Land Use Code ("LUC")) is required to operate a collective garden. The Director of the City's Development Services Department shall specify application submittal requirements as authorized under LUC 20.35.030 to operate a collective garden. All applications and approvals to operate a collective garden shall also comply with the requirements of Chapters 22-24 of the Bellevue City Code.

B. The provisions of RCW 69.51A.085, now or as hereafter amended, shall apply in addition to the provisions of this interim regulation.

C. For the purposes of this interim regulation only, the definitions codified at RCW 69.51A.010, now provided or as hereafter amended, shall apply to the provisions of this ordinance.

D. There shall be no more than one collective garden permitted on a property tax parcel.

E. Collective gardens may only be located in the Light Industrial, General Commercial, Bel-Red General Commercial and Medical Institution land use districts.

F. A collective garden, or facility for delivery of cannabis produced by the garden, may not be located within 1000 feet of schools, religious institutions, youth-oriented facilities, libraries, residential treatment facilities or any other collective garden or delivery site.

G. No collective garden shall be permitted outdoors.

H. No collective garden shall be located in any manner or place where the cannabis plants can be viewed or smelled from a public place.

I. Any transportation or delivery of cannabis from a collective garden shall be conducted by the collective members or designated provider so that quantities of medical cannabis allowed by RCW 69.51A.085, now or as hereafter amended, are never exceeded.

J. A qualifying patient cannot be a member of more than one Collective Garden, and must be a member of one Collective Garden for at least thirty (30) days before transferring their membership to another Collective

Garden. Each Collective Garden must maintain records of its membership for no less than three years.

Duration and Scope of Interim Regulations. The interim regulations imposed by this ordinance shall become effective on the date herein, and shall continue in effect for an initial period of sixty (60) days, unless repealed, extended or modified by the City Council after subsequent public hearings and the entry of additional findings of fact pursuant to RCW 35A.63.220.

Section 3. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council shall hold a public hearing on this ordinance within sixty (60) days of its adoption, or no later than_____, so as to hear and consider public comment and testimony regarding this ordinance. Following such hearing, the City Council may adopt additional findings of fact, and may extend the interim regulations for a period of up to six (6) months. If a period of more than six months is required to complete consideration of any changes to city codes, the Council may adopt additional extensions after any required public hearing, pursuant to RCW 35A.63.220 and RCW 36.70A.390.

Section 4. Permanent Regulations. The City Council hereby directs the staff to develop for its review and adoption permanent regulations to adopt the interim regulations adopted herein, and to transmit this ordinance to the Washington State Department of Commerce as required by law.

Section 5. 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 6. Public Emergency. The City Council hereby finds and declares that a public emergency exists and that this ordinance is a public emergency ordinance necessary for the protection of the public health and safety and should, therefore, take effect upon adoption. The facts upon which this public emergency is based include all recitals set out in this ordinance as well as those facts contained in the legislative record.

Section 7. Effective Date. In accordance with RCW 35A.13.190, this ordinance, as a public emergency ordinance, shall take effect and be in force immediately upon adoption by a majority plus one of the City Council.

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Passed by the City Council this 7th day of May, 2012 and signed in authentication of its passage this 7th day of May, 2012.

(SEAL)

Conrad Lee, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

Attest:

Myrna L. Basich, City Clerk

Published May 10, 2012