

ORDINANCE NO. 2619

AN ORDINANCE OF THE CITY OF ISSAQUAH, WASHINGTON, ADOPTING A MORATORIUM ON THE ESTABLISHMENT OF COLLECTIVE GARDENS, DEFINING "COLLECTIVE GARDENS," ADOPTING FINDINGS OF FACT AND CONCLUSIONS, AND ESTABLISHING AN EFFECTIVE DATE AND EXPIRATION DATE.

WHEREAS, Initiative Measure No. 692, approved November 3, 1998, created an affirmative defense for "qualifying patients" to the charge of possession of Cannabis, and

WHEREAS, the initiative and current Chapter 69.51A RCW are clear that nothing in its provisions are to be "construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of Cannabis for non-medical purposes," and

WHEREAS, the Washington State Department of Health opines that it is "not legal to buy or sell" medical Cannabis, and

WHEREAS, the City acknowledges the right of qualified health care professionals to recommend the medical use of Cannabis, acknowledges the affirmative defense available to qualifying patients from the possession of Cannabis as well as the right of patients to designate a "designated provider" who can "provide" rather than sell Cannabis to "only one patient at any one time," and

WHEREAS, the Legislature has passed E2SSB 5073 (the Act) and the Governor has signed the bill but has vetoed several sections of the bill, and

WHEREAS, E2SSB 5073 will be effective on July 22, 2011 and

WHEREAS, the Act authorizes "collective gardens" which would authorize certain qualifying patients the ability to produce, grow and deliver Cannabis for medical use and,

WHEREAS, the Council adopted Ordinance No. 2616, which established an interim regulation and set a public hearing for July 18, 2011, and

WHEREAS, pursuant to RCW 36.70A.390 a public hearing was held on the scheduled date and all who wished to speak were afforded an opportunity to do so, and

WHEREAS, the production, growth and delivery of Cannabis in collective gardens present issues of public safety for surrounding properties as well as for the property on which the collective gardens exist. Furthermore, the location of such collective gardens near schools, day care facilities and other lawful uses presents issues relating to the public welfare and the protection of minors, and

WHEREAS, the City's zoning, licensing, and other development regulations do not address the potential impacts from collective gardens and the City needs adequate time to consider whether such regulations should be enacted, NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF ISSAQUAH, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1. **Moratorium enacted.** Pursuant to the provisions of RCW 36.70A.390, a zoning moratorium is hereby enacted in the City of Issaquah prohibiting the licensing, establishment, maintenance or continuation of any medical Cannabis collective garden. A "collective garden" is an area or garden where qualifying patients engage in the production, processing, transporting and delivery of Cannabis for medical use as set forth in the Act and subject to the limitations therein.

Section 2. **Collective Gardens prohibited.** Collective gardens as defined in Section 1 are hereby designated as prohibited uses in the City of Issaquah. In accordance with

the provisions of RCW 35A.82.020 and IMC 5.02, no business license shall be issued to any person for collective gardens, which are hereby defined to be prohibited uses under the ordinances of the City of Issaquah.

Section 3. Referral to Planning Policy Commission. This ordinance shall be referred to the Issaquah Planning Policy Commission for its review and recommendation for inclusion in the zoning ordinances of the City of Issaquah.

Section 4. Ordinance to be Transmitted to Department. Pursuant to RCW 36.70A.106, this interim Ordinance shall be transmitted to the Washington State Department of Commerce as required by law.

Section 5. Findings and Conclusions Adopted. The City Council hereby adopts the recitals set forth above, as their Findings and Conclusions as required by RCW 36.70A.390.

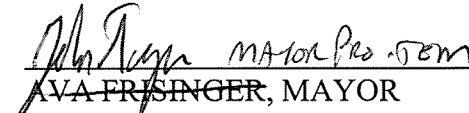
Section 6. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 7. Effective Date/Termination of Moratorium. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication. Unless otherwise extended by the Council, pursuant to RCW 36.70A.390, this Ordinance, and the moratorium established herein, shall expire and terminate on January 11, 2012.

Passed by the City Council of the City of Issaquah, the 18th day of July, 2011.

Approved by the Mayor of the City of Issaquah the 18th day of July, 2011.


APPROVED:

 ~~AVA FRISINGER, MAYOR~~
John Traeger, Mayor Pro Tem

ATTEST/AUTHENTICATED:


CHRISTINE EGGERS, CITY CLERK

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 

PUBLISHED: July 27, 2011
EFFECTIVE DATE: August 1, 2011
ORDINANCE NO. 2619/AB 6280

DISTRIBUTION SCHEDULE
City of Issaquah

Ordinance No. 2619

AB 6280

Subject: Adopting a Moratorium on Medical Marijuana "Collective Gardens" Defining "Collective Gardens."

<u>07-18-11</u>	Date passed by City Council
<u> </u>	Signed by Mayor <i>PRO</i>
<u>07-20-11</u>	Signed by Council President <i>Signed as Mayor PRO TEN'</i>
<u>07-20-11</u>	Signed by City Clerk
<u>07-22-11</u>	Date posted
<u>07-27-11</u>	Date(s) published (normally by title only)
<u>08-01-11</u>	Date effective

Copies of executed document distributed as follows:

<u> x </u>	Ordinance/Resolution file (original)
<u> x </u>	MRSC (per RCW 35A.39.010) - (electronic copy only)
<u> x </u>	Code Publishing Co. (upload files to their website; followed by hard copy)
<u> x </u>	City Attorney (electronic copy only)
<u> x </u>	Originating Department: <u>Planning, Mark Hinthorne</u>
<u> x </u>	Other: <u>NOA - Dept. of Commerce; Paul Ayers</u>
<u> 2 </u>	Posting City Hall Lobby and KC Library
<u> </u>	Certified Copies: <u> </u>
<u> 2 </u>	Total photocopies needed

(Reviewed by City Clerk CEL) (Date 7/19/11)

Deanne Moxberg
(Signed)

7-19-11
(Date)

* If ordinance includes exhibit(s) – make sure you label the last page of the ordinance, explaining that the exhibit(s) is(are) on file with the City Clerk.