
An Interim Ordinance Adopting a Moratorium on Cannabis Dispensaries and Collective Gardens

Whereas the limited use of marijuana (also known as “cannabis”) for medicinal purposes has been allowed and regulated in the State of Washington since the voters approved Initiative 692 in 1998;

Whereas the Washington State Legislature passed Engrosses Second Substitute Senate Bill (E2SSB) 5073, effective July 22, 2011, allowing the establishment and operation of “collective gardens” for growing cannabis for medicinal purposes;

Whereas Section 403 of E2SSB 5073 allows a collective garden to grow and cultivate up to 45 cannabis plants to serve no more than 10 qualifying patients;

Whereas Section 1102 provides that a county may adopt zoning requirements, business licensing requirements, health and safety requirements, and business taxes as those requirements relate to the production, processing, or dispensing of medical cannabis;

Whereas Skagit County currently has no zoning requirements that govern the siting of “collective gardens” for medical cannabis production;

Whereas state law currently prohibits the acquisition, possession, manufacture, sale, or use of cannabis for non-medical purposes, but an initiative that will appear on the November ballot proposes to legalize the recreational use of cannabis in the state;

Whereas other jurisdictions, including every city in Skagit County, have adopted moratoria or other interim development regulations to prohibit or manage the creation of collective gardens for medical cannabis;

Whereas federal law, as set forth in 21 USC § 841(a), makes it illegal to manufacture, distribute, or possess with intent to distribute any controlled substance, and pursuant to 21 USC § 812, marijuana is a Schedule I controlled substance;

Whereas pursuant to the Growth Management Act (GMA), Chapter 36.70A RCW, the Skagit County Board of Commissioners has adopted the Skagit County Comprehensive Plan and Title 14, the Unified Development Code, for all unincorporated areas of Skagit County; and

Whereas RCW 36.70A.390 and RCW 36.70.795 authorize the County Commissioners to adopt a moratorium, interim zoning ordinance, or interim official control without notice and public hearing, provided that the County holds a public hearing within sixty (60) days after the adoption of the moratorium, interim zoning ordinance, or interim official control and thereafter adopts findings of fact justifying the action; and

Whereas an interim ordinance adopted under RCW 36.70A.390 and RCW 36.70.795 may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period; and

Whereas a moratorium is a recognized technique to avoid a rush for permits whenever a community decides to change its planning ordinances;

Now Therefore Be It Ordained:

Section 1. Findings of Fact. The Board of Commissioners adopts the following findings of fact:

- (a) The recitals listed above are incorporated as findings of fact.
- (b) An emergency exists and the immediate adoption of the moratorium imposed by this ordinance is necessary for the protection of the public health, safety, property, and peace.
- (c) The County needs to develop permanent regulations for these uses in the interest of protecting public health and safety, and it is in the public interest to provide adequate time to evaluate the best alternatives and the potential effects of these uses on neighboring properties and the community as a whole.
- (d) Initiatives will appear on the ballot this fall that could significantly change the state of the law, which could result in applications for unanticipated land uses.
- (e) This ordinance is exempt from the public participation requirements of the GMA, subject to the requirements of RCW 36.70A.390.
- (f) This action is taken consistent with the State Environmental Policy Act provisions at WAC 197-11-880 regarding emergency actions.

Section 2. Moratorium.

- (a) The Board of Commissioners hereby declares a moratorium prohibiting the permitting, establishment, or maintenance of any cannabis dispensary or collective garden within unincorporated Skagit County.
- (b) For the purpose of this ordinance, “cannabis dispensary” means any land use that involves the sale or provision of cannabis, other than a collective garden. The term “collective garden” has the same meaning as in RCW 69.51A.085.

Section 3. Work Plan.

- (a) Public Hearing. Pursuant to RCW 36.70A.390 and 36.70.795, the Board of Skagit County Commissioners will hold a public hearing on Tuesday, April 24, 2012, at 11 a.m. in the Commissioners Hearing Room, 1800 Continental Place, Mount Vernon, Washington.
- (b) The Department of Planning & Development Services is hereby directed to work with the Skagit County Prosecutor’s Office and Sheriff’s Office to develop draft regulations regarding cannabis collective gardens, and cannabis dispensaries if they become legal under state law, for

expected adoption through the legislative process defined in SCC 14.08 before the expiration of this ordinance.

- (c) The planning process should address such issues as the appropriate distance of these uses from schools, daycare facilities, public parks, other public facilities, and other dispensaries or collective gardens; the impacts associated with odor and lighting; appropriate screening and other, similar development regulations; and an analysis of the potential secondary impacts associated with these uses.
- (d) Staff is directed to review and consider the experiences of other jurisdictions dealing with similar situations.

Section 4. Effective Date — Vesting — Severability.

- (a) This amendment is an interim ordinance, takes effect immediately upon passage by the Board of County Commissioners, and with adoption of the abovementioned work plan, is effective for one year.
- (b) This ordinance does not apply to any applications vested before the effective date of this ordinance. Pursuant to Skagit County Code 14.02.050, an application vests when the application is deemed complete pursuant to Skagit County Code 14.06.090.
- (c) If any section, sentence, clause, or phrase of this ordinance is held 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.

Witness Our Hands and the Official Seal of Our Office this 3rd day of April, 2012.

**Board of County Commissioners
Skagit County, Washington**

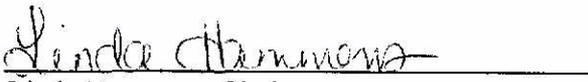

Kenneth A. Dahlstedt, Chair

ABSENT

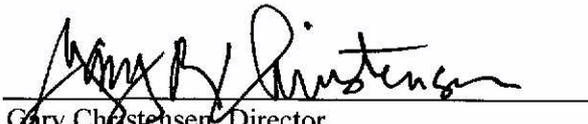
Sharon D. Dillon, Commissioner


Ron Wesen, Commissioner

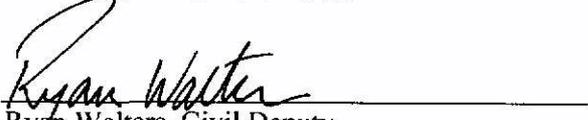
ATTEST:


Linda Hammons, Clerk
Skagit County Board of Commissioners

APPROVED AS TO CONTENT:


Gary Christensen, Director
Planning & Development Services

APPROVED AS TO FORM:


Ryan Walters, Civil Deputy
Skagit County Prosecutor's Office