

## City actions balance new marijuana laws with public safety and welfare



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### **UPDATE:**

A City Council hearing is scheduled for July 21, 2014 to discuss the renewal and six month extension of an emergency ordinance (2014-06-036) establishing interim zoning for the cultivation of medical marijuana for personal use and in collective gardens. The renewal does not include changes to the previously adopted interim rules.

Following the public hearing on August 12, 2013 the City Council took the following actions:

1. Rescinded the moratorium on recreational marijuana,
2. Approved [interim zoning](#) to allow recreational marijuana businesses in industrial and commercial zones following State guidelines, and
3. Directed staff to bring [interim medical marijuana rules](#) to Council Committee for future discussion. In addition, the following maps were created to identify the medical marijuana areas:
  - o [Medical Marijuana Restriction Areas \(890K PDF\)](#)
  - o [Recreational Marijuana Restriction Areas \(834K PDF\)](#)

See the [Council Meeting Materials](#) page for full details.

While popular among potential users, the legalization of marijuana with the passage of I-502 last fall left Washington state and local governments with legal gray areas that still are being sorted out. These gray areas are coupled with ambiguities left over from the 1998 provisions for medical marijuana and the Governor's 2011 veto of portions of a bill that would have led to a system for regulating and licensing dispensaries. This has cities and counties statewide grappling with how best to allow marijuana-related activities without adversely affecting people who live and work nearby.

For example, marijuana operations can produce strong smells and noise. We've received numerous complaints about marijuana operations, such as a production and distribution facility located on the first floor of a mixed-use building, where residents living on the second and third floors can smell strong marijuana odors emanating from below. Should this be allowed, or should these operations be restricted to certain areas, such as industrial or commercial zones? We've received complaints about traffic, noise and increases in criminal behaviors around facilities that claim to be collective gardens. As our communities anticipate new businesses setting up to grow, process and sell marijuana, how and where should they be allowed to operate?

These are among the many questions elected officials in Bellingham and throughout Washington are considering. And for the time being, local governments find themselves in an evolving

landscape, as state regulations await final approval and implementation and the drug remains illegal at the federal level.

It is in light of these ambiguities and challenges that the Bellingham City Council enacted temporary regulations regarding marijuana. Two ordinances were approved on July 1. One adopted interim zoning for the cultivation of medical marijuana for personal use and in collective gardens. The other imposed a 12-month moratorium on cultivation and distribution of marijuana for uses apart from medical prescription. These actions were approved as a temporary measure to establish rules and prevent significant unintended consequences later, especially so that businesses cannot become established in inappropriate places.

Several cities in Washington have enacted temporary regulations, intended to be in place only until new rules can be considered in tandem with new state processes still being developed. Below we answer some frequently asked questions about the temporary measures recently enacted by the Bellingham City Council:

### **Q: What has the City of Bellingham done recently with respect to marijuana regulation?**

On July 1, 2013, the Bellingham City Council passed two separate ordinances that went into effect immediately. One ordinance, 2013-07-047, relates to recreational marijuana as allowed under I-502 and establishes a temporary moratorium on development permits and business registrations for structures and operations involving marijuana production, processing, or retailing. The other ordinance, 2013-07-048, relates to land use and zoning regulations for the cultivation of medical marijuana for personal use and in collective gardens as allowed under RCW 69.51A. It is important to think about these ordinances separately because they address different marijuana uses.

### **Q: What happens next?**

The City Council will hold two separate public hearings on August 12 to take public testimony on each ordinance. Based on this feedback, the Council can rescind, modify or take no action and allow the ordinances to remain in effect as they were approved in July. The City is continuing to study impacts and the most appropriate rules for our community and neighborhoods. The City will consider replacing the current moratorium on recreational marijuana business activity with interim rules so that we can better align with the state's licensing process. Shortly after the City Council approved the two marijuana-related ordinances, it was announced that the Liquor Control Board will start accepting I-502 license applications on September 16, 2013.

### **Q: Why were they adopted as emergency ordinances?**

Normal ordinances require three public readings and, once approved by Council, only take effect after 15 days. State law allows the City to adopt moratoria and interim zoning ordinances pending the adoption of final permanent ordinances. An emergency ordinance takes effect immediately and must pass with at least five Council votes. Emergency ordinances were necessary to preserve the status quo so that new plans and rules will not be rendered meaningless by development that occurs or businesses that are established while new requirements are being considered.

### **Q: Why were these actions taken now?**

We don't want marijuana businesses and collective gardens to become established without logical, predictable planning and rules. It is the City's responsibility to balance the interests of

those wishing to engage in these activities with the needs of public safety, health and welfare.

**Q: What is the purpose and effect of the moratorium on permits and applications related to recreational marijuana production, processing and retailing (Ord. #2013-07-047)?**

The moratorium allows the City adequate time to study the impacts associated with recreational marijuana production, processing and retailing. The City will use this time to draft zoning and business registration rules, hold public hearings and adopt final rules. As with any proposed land use or business, it is important to understand how this newly legalized industry will affect our community and neighborhoods and to adopt appropriate rules. Most rules regarding recreational marijuana are set by I-502 and the upcoming rules to be issued by the Liquor Control Board, but cities are allowed to set their own zoning policies for the location of recreational marijuana businesses. The moratorium will also allow the City adequate time to study I-502, and to evaluate the administrative rules issued by the Liquor Control Board, which will become effective in mid-September of 2013. During the moratorium, the City will not accept applications for development permits or business registrations for recreational marijuana businesses.

**Q: What is the purpose and effect of the interim zoning rules related to medical marijuana (Ord. # 2013-07-048)?**

As with the moratorium on recreational marijuana business activity, the interim zoning rules related to medical marijuana provide the City with an opportunity to study the impacts of collective gardens and the cultivation by individual qualifying patients and to prepare appropriate revisions to the City's codes. The City seeks to mitigate negative impacts and unintended consequences to our community. During the interim period, collective gardens are allowed only in industrial zoned areas and cannot be established within 1000 feet of structures such as schools, playgrounds, recreation centers, child care centers, public parks and the like. Cultivation of medical marijuana for personal use is allowed inside homes located in residential single-family zones.

**Q: Do these ordinances change how the federal government will approach marijuana in Bellingham?**

No. All marijuana operations in the State of Washington are still subject to restrictions under federal law, and we have not been given clear indications on how the federal government will approach enforcement.

**Q: If I want to see something changed in these ordinances, is there still time to comment?**

Yes. You can testify at the public hearings scheduled for August 12, 2013. Additionally, once the City has studied the potential land use impacts associated with marijuana, draft final rules will be presented and additional public commenting opportunities will be available at future hearings in front of the Planning Commission and City Council.

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