

CODE ORDINANCE

**CITY OF REDMOND
ORDINANCE NO. 2682**

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, ADOPTING INTERIM LAND USE REGULATIONS AND OFFICIAL CONTROLS PURSUANT TO RCW 35A.63.220 AND RCW 36.70A.390; ADDING NEW MARIJUANA-RELATED DEFINITIONS TO RZC 21.78; ADDING A NEW RZC CHAPTER 21.41 PROHIBITING MEDICAL CANNABIS COLLECTIVE GARDENS IN ALL ZONING DISTRICTS OF THE CITY AND PROHIBITING THE LOCATION OF OTHER MARIJUANA-RELATED FACILITIES AND USES UNTIL THE STATE ADOPTS LICENSING REGULATIONS AND THE CITY ADOPTS ZONING REGULATIONS; ENTERING LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, recent amendments to Chapter 69.51A RCW have expanded the scope of certain activities involving the use of marijuana for medical purposes, including the ability of "qualifying patients" to create and participate in "collective gardens" for the purpose of producing, processing, transporting, and delivering marijuana for medical use, subject to certain conditions; and

WHEREAS, Ordinance Nos. 2612, 2642, and 2660 of the City of Redmond enacted and extended a moratorium on the establishment, licensing, and permitting of collective gardens within the city; and

WHEREAS, since the enactment of Ordinance Nos. 2612, 2642, and 2660, Initiative 502 was passed by the voters of the State of Washington in November 2012, providing a framework under

which marijuana producers, processors, and retailers can become licensed by the State of Washington; and

WHEREAS, under Initiative 502, the Washington State Department of Health ('Department') is tasked with the responsibility to adopt regulations governing the licensing and operation of marijuana producers, processors, and retailers, and the Department is currently working on the regulations and is projecting that the regulations will be issued later this year; and

WHEREAS, collective gardens and marijuana production, processing, and retailing uses must be addressed in the City's zoning code, but the impacts of these uses are still largely unknown and the regulations that the City will need to address them are uncertain pending the Department's adoption of its licensing regulations and procedures; and

WHEREAS, unless the City acts immediately to address collective gardens and other marijuana-related uses, such uses may be able to locate in the city without regulation and thereby have adverse impacts on the city and its citizens; and

WHEREAS, Article XI, Section 11 of the Washington State Constitution, RCW 35A.63.220, and RCW 36.70A.390, authorize the City to adopt interim land use regulations and official controls, and the Redmond City Council deems it to be in the

public interest to adopt the regulations and prohibitions set forth in this ordinance under this authority; and

WHEREAS, a public hearing was held on the regulations set forth in this ordinance on February 19, 2013, and the Council has weighed the testimony received at the hearing in enacting this ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Classification. Portions of this ordinance are of a general and permanent nature and the definitions and regulations contained in Sections 3 and 4 of this ordinance shall become a part of the Redmond Zoning Code. Sections 1, 2, 5, 6, 7, 8, and 9 of this ordinance are procedural only and shall not be codified.

Section 2. Findings. In support of the regulations enacted by this ordinance, the Redmond City Council adopts as its preliminary findings the recitals set forth above and the findings adopted by the Council in Ordinance Nos. 2612, 2642, and 2660 of the City of Redmond. The Council may adopt additional findings in the event that additional public hearings are held or evidence presented to the City Council.

Section 3. Amendment of Section. RZC 21.78, Article VII, Definitions, is hereby amended to add the following definitions:

Collective Garden. A facility, use, or location at which qualifying patients grow, produce, process, transport, or deliver marijuana for medical use, as provided in RCW 69.51A.085.

Marijuana. All parts of the plant cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

Marijuana-Infused Products. Products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" does not include usable marijuana.

Marijuana Processor. A person licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

Marijuana Producer. A person licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

Marijuana Retailer. A person licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet.

Retail Outlet. A location licensed by the state liquor control board for the retail sale of useable marijuana and marijuana-infused products.

THC Concentration. The percent of delta-9 tetrahydrocannabinol content per dry weight of any

part of the plant cannabis, or per volume or weight of marijuana product.

Useable Marijuana. Dried marijuana flowers. The term "useable marijuana" does not include marijuana-infused products.

Section 4. Adoption of Section. RZC Chapter 21.41,

Marijuana-Related Uses, is hereby adopted to read as follows:

RZC 21.41 MARIJUANA-RELATED USES

21.41.010 Collective Gardens

(A) Collective gardens are a prohibited use in all zoning districts of the City.

21.41.020 State-Licensed Facilities

(A) **Relationship to Federal Law.** The production, processing, and retailing of marijuana is and remains illegal under federal law. Nothing in this chapter or as provided elsewhere in the RZC or RMC authorizes or permits any person or entity to circumvent or violate federal law.

(B) **Marijuana-Related Land Uses Prohibited.** The production, processing, and retailing of marijuana is prohibited in all zoning districts of the city. Such prohibition shall apply until such time as:

(1) The state liquor control board has issued permanent regulations governing the licensing of such uses; and

(2) The City has adopted permanent zoning regulations governing the location and operation of such uses within the city.

(C) **Duty of City Staff.** Upon the issuance of permanent regulations by the state liquor control board governing the licensing of marijuana producers, marijuana processors, and marijuana retailers, the City planning staff shall expeditiously prepare draft zoning regulations governing the location and operation of such uses within the city. Such regulations shall be presented to the Redmond Planning Commission and Redmond City Council for consideration and action in due course. Such regulations shall permit the location of marijuana producers, marijuana processors, and marijuana retailers in the city to the extent, but only to the extent, authorized by state law and then only when in compliance with state licensing requirements and the City's regulations.

(D) **Nuisance Abatement.** In addition to any other available remedy or penalty, any violation of this section is declared to be a public nuisance per

se, and may be abated under the applicable provisions of this code or state law, including but not limited to the provisions of RMC 1.14.

Section 5. Effective Period for Interim Regulations.

The interim land use regulations and official controls set forth in this ordinance shall be in effect for a period of six months from the date this ordinance is passed and shall automatically expire on that date unless the same is extended, as provided in RCW 35A.63.220 and RCW 36.70A.390, or unless terminated sooner by the Redmond City Council.

Section 6. Direction to Staff and Planning Commission.

The Mayor or his designee is hereby authorized and directed to develop draft permanent regulations regarding marijuana-related uses to replace the interim regulations and land use controls set forth in this ordinance. The permanent regulations shall be referred to the Redmond Planning Commission for review and recommendation for inclusion in the Redmond Zoning Code

Section 7. Transmittal to Department of Commerce.

Pursuant to RCW 36.70A.106, this ordinance shall be transmitted to the Washington State Department of Commerce, as required by law.

Section 8. 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 of any other section, sentence, clause, or phrase of this ordinance.

Section 9. Effective Date. This ordinance shall take effect five days after its publication, or publication of a summary thereof, in the City's official newspaper, or as otherwise provided by law.

ADOPTED by the Redmond City Council this 19th day of
February, 2013.

CITY OF REDMOND

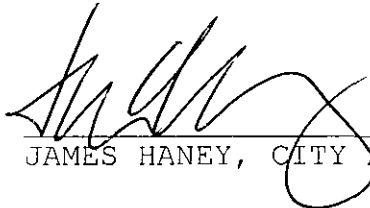

JOHN MARCHIONE, MAYOR

ATTEST:


MICHELLE M. MCGEHEE, MMC, CITY CLERK

(SEAL)

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:


JAMES HANEY, CITY ATTORNEY

FILED WITH THE CITY CLERK:	February 13, 2013
PASSED BY THE CITY COUNCIL:	February 19, 2013
SIGNED BY THE MAYOR:	February 19, 2013
PUBLISHED:	February 25, 2013
EFFECTIVE DATE:	March 2, 2013
ORDINANCE NO. 2682	

ADOPTED 4-0: Allen, Margeson, Myers and Stilin