

**Ordinance 2013-05-\_\_\_\_\_**

An Ordinance relating to land use and zoning, implementing zoning authority under both RCW 35.63 and the Washington Constitution regulating Collective Gardens as defined in RCW 69.51A.085 and the commercial production, processing, or dispensing of cannabis in all zoning districts in the unincorporated area of Clark County Washington.

WHEREAS, in 1998, the Washington voters chose to remove criminal penalties for patients who use medical cannabis for a debilitating or terminal conditions; and

WHEREAS, for the preceding 50+ years, production, processing, sale, possession or dispensing of cannabis was a crime in the State of Washington; and

WHEREAS, in 2011 and 2013, Washington state law has dramatically changed the laws regulating the growth and use of marijuana; and

WHEREAS, while the U. S. Attorney's Office has notified the legislature, the governor, and the Clark County Commissioners that such state legislation will not shield Washington citizens from the potential for federal prosecution, no action has been taken over the past three years; and

WHEREAS, the production, processing or dispensing of medical marijuana is an important public issue and it is critical such facilities be appropriately spaced to mitigate risks to the public generally and particularly vulnerable populations, including youth; and

WHEREAS, the Board finds and concludes that given the state's removal of penalties in spite of inconsistent federal laws, it is appropriate to keep staff from actively reviewing applications or issuing permits;

WHEREAS, Title 35.63 RCW and the Washington Constitution authorize the Board of County Commissioners to adopt police power ordinances to promote the public, health, safety, and welfare; and

WHEREAS, the Board has held a duly advertised public hearing in compliance with state law and that adoption of this ordinance will further the public health; now, therefore

BE IT ORDERED, RESOLVED AND DECREED BY THE BOARD OF COUNTY COMMISSIONERS OF CLARK COUNTY, STATE OF WASHINGTON, AS FOLLOWS:

Section 1. New. A new section 40.260.115 is added to the Clark County Code to read:

**40.260.115 MEDICAL MARIJUANA COLLECTIVE GARDENS**

A. Purpose.

The purpose of these regulations is to mitigate the effects of medical marijuana collective gardens by establishing criteria to adequately separate such establishments from schools, community centers, parks, licensed daycare facilities, and other collective gardens, and to establish minimum performance standards to address public health and safety impacts from such uses.

B. Applicability.

1. This ordinance shall apply throughout the unincorporated areas of the county.
2. The location restrictions and special standards in this section apply to any facility that falls within the use category for collective gardens as defined by RCW 69.51A.085. This use is limited to qualified marijuana patients, as defined in RCW 69.51A.010.

C. Definitions.

For purposes of this section, the following definitions shall apply:

<u>Collective garden</u>	<u>"Collective garden" means a facility established by qualifying marijuana patients sharing responsibility for acquiring and supplying the resources required to produce and process cannabis for medical use, in accordance with RCW 69.51A.085.</u>
<u>Qualified marijuana patient</u>	<u>"Qualified marijuana patient" is someone meeting the definition in RCW 69.51A.010 (4) who does not violate the conditions state law for such patients.</u>

#### D. Location Standards.

1. Collective gardens shall be a permitted use in the light industrial (IL), business park (BP), and rural center commercial (CR-2) zoning districts, but prohibited in all other zoning districts.
2. No collective garden may be sited within one thousand (1,000) feet of a public or private school, community center, park, licensed daycare facility, or other collective garden.

#### E. Development Standards.

1. Prior to undertaking any action onsite, the operator of a collective garden shall notify the Community Development department of the location of such collective garden.
2. No more than one collective garden is permitted per legal lot.
3. Collective Gardens must be spaced at least one thousand (1000) feet from schools, churches, community centers, parks, and other Collective Gardens.
4. Collective gardens shall not be allowed as accessory uses.
5. Collective gardens shall be located entirely within an enclosed and secure structure with an engineered foundation, and shall be constructed in compliance with CCC Title 14.
6. There shall be no on-site display or sale of paraphernalia used for the consumption of cannabis at the collective garden.
7. Cannabis plants shall not be visible from the public right-of-way or any public place. No signs or symbols advertising the collective garden shall be permitted.
8. Collective gardens shall be closed to any distribution of cannabis between the hours of 8:00 p.m. and 7:00 a.m.
9. Measures shall be implemented to prevent adverse health and safety effects to nearby residents from odors, noise, noxious gases, light, smoke and security.
  - a. Odors. Collective gardens shall not create odors or smoke that amount to a nuisance as defined Chapter 7.48 RCW.
  - b. Lighting. All lights used for security shall be shielded or positioned to prevent glare impacts to nearby properties.
  - c. Noise. Collective gardens shall not exceed the maximum noise levels of Chapter 9.14.
  - d. Security. Security measures shall include, at a minimum, the following:
    - (1) Robbery and burglary alarm systems which are professionally monitored and maintained in good working condition.
    - (2) Exterior lighting that illuminates all exterior entrances;
    - (3) Deadbolt locks on all exterior doors; and
    - (4) Windows secured with bars or other measures to prevent unauthorized entry.
10. All premises or vehicles used or operated by the collective garden shall have no greater aggregate quantities of cannabis, cannabis plants or cannabis containing products than are allowed under RCW 69.51A.085.

11. No more than ten (10) qualifying patients may participate in a single collective garden at any time.
12. A collective garden may contain no more than fifteen (15) plants per patient, up to a total of forty-five (45) plants.
13. A collective garden may contain no more than twenty-four (24) ounces of usable cannabis per patient, up to a total of seventy-two (72) ounces of usable cannabis.
14. A copy of each qualifying patient's valid documentation or proof of registration with the registry established in state law, including a copy of the patient's proof of identity, must be available all times on the premises of the collective garden.
15. A qualifying patient must be a member of the same collective garden for at least (30) days before transferring their membership to another collective garden. Each collective garden shall maintain records of its membership for no less than three (3) years.
16. No usable cannabis from the collective garden may be delivered to anyone other than one of the qualifying patients participating in the collective garden.

F. Enforcement.

Violations of this chapter shall be subject to enforcement action as contained in Title 32, Enforcement. Violations of subsections E9.a.-c. are deemed a public nuisance.

Section 2. Amendatory. Table 40.210.050-1 in CCC Section 40.210.050 is hereby amended, as follows:

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20. Other Uses.	CR-1	CR-2	
a. Temporary uses	P	P	40.260.220
b. Private use heliports	X	X	40.260.170
c. Solid waste handling and disposal sites	C <sup>1</sup>	C <sup>1</sup>	40.260.200
<u>d. Medical marijuana collective gardens</u>	X	P	40.260.115

Section 3. Amendatory. Table 40.230.085-1 in CCC Section 40.230.085 is hereby amended, as follows:

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G. Other uses not listed as NAICS codes	IL	IH	IR	BP
1. Service stations for vehicle fleets, including cardlock facilities	P	P	P	P
2. Personal property storage including outdoor RV and boat storage	P	X	X	X
3. Accessory uses				
a. Administrative, educational, and other related activities and facilities	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>
b. Caretaker, security or manager residence when incorporated as an integral part of a permitted use	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>
c. Off-site hazardous waste treatment and storage facilities (subject to RCW 70.105.210)	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>
4. Other Uses				
a. Parks, trails and related uses	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>
b. Existing residential uses (without any increase in density)	P	P	P	P
c. Legally existing commercial and industrial use structures	P	P	P	P
d. Public facilities for the support of construction projects and agency operations, including offices for employees of the facility	P	P	P	P
e. Electric vehicle infrastructure	P	P	P	P
<u>f. Medical marijuana collective gardens (subject to 40.260.115 where allowed).</u>	P	X	X	P

Section 4. Amendatory. Ordinance 2006-05-04 as codified in CCC 40.240.110 is hereby amended, as follows:

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C. Collective Gardens as defined in CCC. 40.100.070.

Section 5. Findings. The findings and conclusions contained in the recital clauses above are adopted in support of the Board's action in enacting this ordinance.

Section 6. Instructions to Clerk. The Clerk to the Board shall:

1. Record a certified copy of this Ordinance with the Clark County Auditor.
2. Transmit a copy to the Department of Commerce following the date of its adoption.

ADOPTED this \_\_\_\_<sup>th</sup> day of May 2013.

BOARD OF COMMISSIONERS  
FOR CLARK COUNTY

Attest:

\_\_\_\_\_  
Clerk to the Board  
Approved as to form only:  
ANTHONY F. GOLIK  
Prosecuting Attorney

\_\_\_\_\_  
Christopher Horne, WSBA #12557

By: \_\_\_\_\_  
Steve Stuart, Chair

By: \_\_\_\_\_  
Tom Mielke, Commissioner

By: \_\_\_\_\_  
David Madore, Commissioner

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