

Ordinance 2013-05-_____

An Ordinance relating to land use and zoning, implementing zoning authority under both RCW 35.63 and the Washington Constitution prohibiting 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, the legislature has sought to expand the opportunities to grow, produce, process and dispense medical cannabis in the State of Washington; and

WHEREAS, 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; and

WHEREAS, the production, processing or dispensing of medical marijuana is an important public issue and the improper location of such facilities could cause serious harm to the public generally and particularly vulnerable populations, including youth; and

WHEREAS, serious issues remain regarding locational criteria of siting facilities containing medical marijuana from churches, schools, bus stops and other public gathering sites to ensure that the public is properly protected; and

WHEREAS, the Board is concerned that action of county employees issuing permits for the commercial growth, production or distribution of Cannabis; and Collective Gardens will

make them accessories to the commission of federal crimes based on correspondence from the US Attorney's Office; and

WHEREAS, the Board finds and concludes that until the federal/state conflict is resolved the citizens of Clark County will follow federal law;

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 enacted a temporary resolution with proper notice on August 16, 2011 as necessary to further the public health, safety and welfare; and

WHEREAS, the Board has held a duly advertised public hearing in compliance with state law; and

WHEREAS, the Board enters the findings and conclusions set forth below in support of this resolution extending the moratorium; now, therefore,

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

Section 1. Amendatory CCC Section 40.100.070 is hereby amended, as follows:

<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 or process cannabis for medical use, in accordance with RCW 69.51A.085. In addition, for the purposes of the zoning code, Collective Gardens shall include the commercial growth, production, or dispensing of medical marijuana.</u>
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Section 2. Amendatory. Table 40.210.010-1 in CCC Section 40.210.010 is hereby amended, as follows:

9. Other.					
a. Signs	P	P	P	P	Chapter 40.310
b. Utilities, structures and uses including but not limited to utility substations, pump stations, wells, watershed intake facilities, gas and water transmission lines	P	P	P	C	40.260.240
c. Wireless communications facilities	P/C ⁹	P/C ⁹	P/C ⁹	P/C ⁹	40.260.250
d. Dams for flood control and hydroelectric generating facilities	C	C	C	C	
e. Solid waste handling and disposal sites	C	C	C	C	40.260.200
f. Private use landing strips for aircraft	C	C	C	X	40.260.170
g. New cemeteries and mausoleums, crematoria, columbaria, and mortuaries within cemeteries; provided, that no crematoria is within two hundred (200) feet of a lot in a residential district	X	X	X	C	
h. Expansion of existing cemeteries	P	P	P	P	
i. Temporary uses	P	P	P	P	40.260.220
j. Electric vehicle infrastructure	P	P	P	P	40.260.075
<u>k. Medical marijuana collective gardens</u>	X	X	X	X	

Section 3. Amendatory. Table 40.210.020-1 in CCC Section 40.210.020 is hereby amended, as follows:

8. Other.				
a. Private use landing strips for aircraft and heliports	C	C	C	40.260.170
b. Solid waste handling and disposal sites	C	C	C	40.260.200

c. Utilities, structures and uses including but not limited to utility substations, pump stations, wells, watershed intake facilities, gas and water transmission lines	P	P	P	40.260.240
d. Wireless communications facilities	P/C ³	P/C ³	P/C ³	40.260.250
e. Cemeteries and mausoleums, crematoria, columbaria, and mortuaries within cemeteries; provided, that no crematoria is within two hundred (200) feet of a lot in a residential district.	C	C	C	
f. Temporary uses	P	P	P	40.260.220
g. Electric vehicle infrastructure	P	P	P	40.260.075
<u>h. Medical marijuana collective gardens</u>	X	X	X	

Section 4. Amendatory. Table 40.210.030-1 in CCC Section 40.210.030 is hereby amended, as follows:

8. Other.			
a. Utilities, structures and uses including but not limited to utility substations, pump stations, wells, watershed intake facilities, gas and water transmission lines	P	P	40.260.240
b. Solid waste handling and disposal sites	C	C	40.260.200
c. Wireless communications facilities	P/C ²	P/C ²	40.260.250
d. Cemeteries and mausoleums, crematoria, columbaria, and mortuaries within cemeteries; provided, that no crematoria is within 200 feet of a lot in a residential district	X	X	
e. Temporary uses	P	P	40.260.220
f. Electric vehicle infrastructure	P	P	40.260.075
<u>g. Medical marijuana collective gardens</u>	X	X	

Section 5. Amendatory. Table 40.210.040-1 in CCC Section 40.210.040 is hereby amended, as follows:

8. Other.			
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a. Utilities, structures and uses including but not limited to utility substations, pump stations, wells, watershed intake facilities, gas and water transmission lines	P	P	40.260.240
b. Solid waste handling and disposal sites	C	C	40.260.200
c. Wireless communication facilities	P/C ²	P/C ²	40.260.250
d. Cemeteries and mausoleums, crematoria, columbaria, and mortuaries within cemeteries; provided, that no crematoria is within two hundred (200) feet of a lot in a residential district	C	C	
e. Temporary uses	P	P	40.260.220
f. Electric vehicle infrastructure	P	P	40.260.075
<u>g. Medical marijuana collective gardens</u>	X	X	

Section 6. Amendatory. Table 40.210.050-1 in CCC Section 40.210.050 is hereby amended, as follows:

20. Other Uses.			
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 ¹	C ¹	40.260.200
<u>d. Medical marijuana collective gardens</u>	X	X	

Section 7. Amendatory. Table 40.220.010-1 in CCC Section 40.220.010 is hereby amended, as follows:

8. Other.											
a. Cemeteries and mausoleums	C ⁵										
b. Utilities, other than wireless communications facilities	P	P	P	P	P						40.260.240
c. Solid waste handling and disposal sites	C	C	C	C	C						40.260.200
d. Wireless communications facilities	P/C ⁶						40.260.250				
e. Temporary uses	P	P	P	P	P						40.260.220
f. Electric vehicle infrastructure	P	P	P	P	P						40.260.075
<u>g. Medical marijuana collective gardens</u>	X	X	X	X	X						

Section 8. Amendatory. Table 40.220.020-1 in CCC Section 40.220.020 is hereby amended, as follows:

11. Other.											
a. Cemeteries and mausoleums	C	C	C	C	C	C	C	C	C	C	
b. Private use heliports	X	X	X	X	X	C	C	C	C	C	40.260.170
c. Utilities, other than wireless communication facilities	P	P	P	P	P	P	P	P	P	P	40.260.240
d. Solid waste handling and disposal sites	C	C	C	C	C	C	C	C	C	C	40.260.200
e. Wireless communication facilities	P/C ³	40.260.250									
f. Temporary uses	P	P	P	P	P	P	P	P	P	P	40.260.220
g. Electric vehicle infrastructure	P	P	P	P	P	P	P	P	P	P	40.260.075
<u>h. Medical marijuana collective gardens</u>	X	X	X	X	X	X	X	X	X	X	

Section 9. Amendatory. Table 40.230.010-1 in CCC Section 40.230.010 is hereby amended, as follows:

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

Section 10. Amendatory. Table 40.230.020-1 in CCC Section 40.230.020 is hereby amended, as follows:

19. Other Uses.		
a. Temporary uses	R/A	40.260.220
b. Private use heliports	X	
c. Solid waste handling and disposal sites	X	
<u>d. Medical marijuana collective gardens</u>	X	

Section 11. Amendatory. Table 40.230.050-1 in CCC Section 40.230.050 is hereby amended, as follows:

2. Other.		
a. Any other uses included in an approved MDP.	P	
b. Buildings that exceed the height regulations in Table 40.230.050-3	C	
c. Utilities, other than wireless communications facilities	P	40.260.240
d. Wireless communications facilities	P/C ¹	40.260.250
e. Solid waste handling and disposal sites	C	40.260.200
f. Temporary uses	P	40.260.220
g. Electric vehicle infrastructure	P	40.260.075
h. Roadside farm stand	P	40.260.025
i. Agricultural market	P	40.260.025

<u>j. Medical marijuana collective gardens</u>	X	
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Section 12. Amendatory. Table 40.230.060-1 in CCC Section 40.230.060 is hereby amended, as follows:

10. Other.		
a. Buildings or structures which exceed thirty-five (35) feet in height	C	
b. Utilities, other than wireless communications facilities	P	40.260.240
c. Wireless communications facilities	P/C ¹	40.260.250
d. Solid waste handling and disposal sites	C	40.260.200
e. Temporary uses	P	40.260.220
f. Electric vehicle infrastructure	P	40.260.075
<u>g. Medical marijuana collective gardens</u>	X	

Section 13. Amendatory. Table 40.230.070-1 in CCC Section 40.230.070 is hereby amended, as follows:

8. Other.				
a. Utilities, structures and uses including but not limited to utility substations, pump stations, wells, watershed intake facilities, gas and water transmission lines	P	P	P	40.260.240
b. Solid waste handling and disposal sites	C	C	C	40.260.200
c. Wireless communications facilities	P/C ³	P/C ³	P/C ³	40.260.250
d. Cemeteries and mausoleums, crematoria, columbaria, and mortuaries within cemeteries; provided, that no crematorium is within two hundred (200) feet of a lot in a residential district	C	C	C	
e. Temporary uses	P	P	P	40.260.220
f. Electric vehicle infrastructure	P	P	P	40.260.075
g. Commercial storage of boats, vehicles, and RVs	X	P ^{4, 5}	P ^{4, 5}	
h. Storage yard for building materials, contractors' equipment and vehicles, house mover, delivery vehicles, transit storage, used equipment in operable condition and related materials	X	P ^{4, 5}	P ^{4, 5}	
<u>i. Medical marijuana collective gardens</u>	X	X	X	

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Section 14. Amendatory. Table 40.230.085-1 in CCC Section 40.230.085 is hereby amended, as follows:

G. Other uses not listed as NAICS codes				
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 ²	P ²	P ²	P ²
b. Caretaker, security or manager residence when incorporated as an integral part of a permitted use	P ²	P ²	P ²	P ²
c. Off-site hazardous waste treatment and storage facilities (subject to RCW 70.105.210)	P ²	P ²	P ²	P ²
4. Other Uses				
a. Parks, trails and related uses	P ²	P ²	P ²	P ²
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</u>	X	X	X	X

Section 15. Amendatory. Ordinance 2006-05-04 as codified in CCC 40.240.110 is hereby amended, as follows:

C. Collective Gardens as defined in CCC. 40.100.070.

Section 16. 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 17. 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 ____th day of May 2013.

BOARD OF COMMISSIONERS
FOR CLARK COUNTY

Attest:

_____	By: _____
Clerk to the Board	Steve Stuart, Chair
Approved as to form only:	By: _____
ANTHONY F. GOLIK	Tom Mielke, Commissioner
Prosecuting Attorney	By: _____
_____	David Madore, Commissioner
Christopher Horne, WSBA #12557	