



**City of Tacoma**  
Community and Economic Development Department

**Agenda Item  
PH-1**

TO: Planning Commission  
FROM: Donna Stenger, Manager, Long-Range Planning Division  
SUBJECT: Medical Cannabis Moratorium Public Hearing  
DATE: August 31, 2011

At your next meeting on September 7, 2011, the Planning Commission will hold a public hearing beginning at 4:00 p.m. The subject of the public hearing will be the need for and duration of a moratorium to stop the acceptance of applications for medical cannabis collective gardens or medical cannabis dispensaries.

Attached is the Public Hearing Report that summarizes the moratorium, the process for consideration of moratoria, and the public notice process. A copy of the Public Hearing Notice, Ordinance No. 28010 (the emergency moratorium), and Resolution No. 38318 (creating the Medical Cannabis Task Force) are also attached for the Commission's use and reference for the public hearing.

In addition, we also are providing the public comments submitted to date. All comments received by the comment deadline of noon September 7 will be handed out at the meeting.

If you have any questions or requests, you may contact me at 591-5210 or by e-mail at [dstenger@cityoftacoma.org](mailto:dstenger@cityoftacoma.org).

Attachments

c: Peter Huffman, Assistant Director





## MEDICAL CANNABIS EMERGENCY MORATORIUM REVIEW

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### *PUBLIC HEARING REPORT*

Tacoma Planning Commission Public Hearing  
September 7, 2011

#### **A. SUBJECT:**

Emergency moratorium on the acceptance of applications for medical cannabis collective gardens and dispensaries within the City of Tacoma.

#### **B. BACKGROUND:**

On August 2, 2011, the City Council enacted an emergency moratorium on medical cannabis collective gardens and dispensaries (Ordinance No. 28010). The moratorium prohibits the acceptance of applications for the establishment, location, operation, licensing, permitting, maintenance, or continuation of medical cannabis collective gardens or medical cannabis dispensaries within the City. The moratorium applies Citywide and was enacted for a duration of six months (until February 1, 2012).

#### **C. LAND USE REGULATORY CODE – PROCESS FOR MORATORIA:**

In accordance with Tacoma Municipal Code Section 13.02.055, the process for moratoria is as follows:

##### **1. Declaring a Moratorium**

- a. A moratorium and/or interim zoning controls may be considered either as a result of an emergency situation or as a temporary protective measure to prevent vesting of rights under existing zoning and development regulations.
- b. Moratoria or interim zoning may be initiated by either the Planning Commission or the City Council by means of determination at a public meeting that such action may be warranted.
- c. Where an emergency exists, prior public notice may be limited to the information contained in the public meeting agenda. City Council-initiated moratoria or interim zoning shall be referred to the Planning Commission for findings of fact and a recommendation prior to action; provided, that where an emergency is found to exist by the City Council, it may act immediately and prior to the formulation of Planning Commission findings of fact and recommendation.
- d. At its next available meeting immediately following the City Council's referral or action, the Planning Commission shall consider the measure and, if it finds evidence that an emergency exists necessitating the immediate imposition of a moratorium or interim zoning, or that temporary measures are needed to protect the status quo, it shall recommend adoption to the City Council.
- e. The Planning Commission shall respond with its findings of fact and recommendation to the Council within 30 days of the date of the Commission meeting at which it is first made aware of the Council's request.
- f. In emergency situations where the City Council has first enacted a moratorium or interim zoning, but where the Planning Commission's findings of fact and recommendation do not support the action, the City Council shall reconsider, but shall not be bound to reversing, its action.

## **2. Public Hearing and Action**

- a. The Planning Commission will hold at least one public hearing prior to formulating its recommendation to the City Council.
- b. In the case of moratoria or interim zoning, the City Council shall hold a public hearing within at least 60 days of adopting any moratoria or interim zoning, as provided by RCW 36.70A.390.
- c. The City Council shall adopt findings of fact justifying the adoption of moratoria before, or immediately after, it holds a public hearing.

## **3. Duration of Moratorium**

- a. As part of its findings of fact and recommendation, the Planning Commission shall recommend to the City Council a duration for the moratorium and note if a study, either underway or proposed, is expected to develop a permanent solution and the time period by which that study would be concluded.
- b. Moratoria or interim zoning may be effective for a period of not longer than six months, but may be effective for up to one year if a work plan is developed for related studies requiring such longer period.
- c. Moratoria or interim zoning may be renewed for an unlimited number of six-month intervals following their imposition; provided, that prior to each renewal, a public hearing is held by the City Council and findings of fact are made which support the renewal.

## **D. GENERAL INFORMATION:**

### **1. Environmental Evaluation**

Procedural actions such as the adoption of legislation, rules, regulation, resolutions or ordinances, or of any plan or program relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment is exempt from SEPA environmental evaluation under WAC 197-11-800(19).

### **2. Public Review Process**

The Medical Cannabis Moratorium was first reviewed by the Planning Commission at its August 17, 2011 meeting. The Planning Commission was provided a copy of the emergency moratorium, Ordinance No. 28010, a copy of recent WA State legislation on Medical Cannabis (E2SSB 5073), and a Fact Sheet prepared by the Association of Washington Cities after E2SSB 5073 was passed. The Planning Commission discussed its responsibilities under the moratorium, one of which is to conduct a public hearing on the moratorium. The Planning Commission authorized the distribution of the moratorium for public comment prior to September 7, 2011, the public hearing date established by Ordinance No. 28010.

### **3. Notification**

Written and/or electronic notice of the Planning Commission's public hearing was sent to community members who testified on the emergency moratorium to the City Council at its August 2, 2011 meeting, all known owners of medical cannabis dispensaries and/or medical cannabis collective gardens, parties of record involved in the Hearing Examiner appeals, citizens who provided comments to the Planning Commission prior to the public hearing on September 7, 2011 concerning the moratorium and possible future regulation of medical cannabis within the City and to members of the Medical Cannabis Task Force. The notice also was provided to all recipients of the Planning

Commission agenda, the Planning Commission's electronic mailing list, City Council members, Neighborhood Councils, business district associations, adjacent jurisdictions, state and other governmental agencies, the Puyallup Tribal Nation, City staff, City Commissions, environment, development, civic and social organizations, major institutions and employers, and other interested individuals and groups. In addition, notice was sent to taxpayers of record for all known properties with existing medical cannabis collective gardens and/or dispensaries and to taxpayers of record for all properties within 400 feet of these properties. In total, the notice was sent to more than 1,700 addresses. Additionally, the public notice was posted on the bulletin boards on the first and second floors of the Tacoma Municipal Building and on the City's internet website.

The notice could also be viewed and downloaded at the Planning Division's website ([www.cityoftacoma.org/planning](http://www.cityoftacoma.org/planning)). The notice was also posted on the public information bulletin boards on the first and second floors of the Tacoma Municipal Building.

The notice stated the time and place of the hearing, the purpose of the public hearing, where and how additional information could be obtained and how to provide comments. Advertisement of the public hearing was published in *The News Tribune* on August 31, 2011.

**E. COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT RECOMMENDATION:**

Staff recommends that the Planning Commission accept and evaluate all oral and written testimony submitted prior to, and given at, the public hearing prior to making a recommendation to the City Council.

**F. ATTACHMENTS:**

1. Public Hearing Notice
2. Ordinance No. 28010 - Medical Cannabis Moratorium
3. Resolution No. 38318 - Medical Cannabis Task Force





# NOTICE OF PUBLIC HEARING

## MORATORIUM ON MEDICAL CANNABIS DISPENSARIES & COLLECTIVE GARDENS

On August 2, 2011 the City Council adopted Ordinance No. 28010, placing a six-month moratorium on the establishment, location, operation, licensing, permitting, maintenance or continuation of medical marijuana collective gardens or medical marijuana dispensaries. The purpose of the moratorium is to allow the City time to review recent changes in state law and consider potential changes to the City's regulations and requirements.

### PLANNING COMMISSION PUBLIC HEARING

Wednesday, September 7, 2011 4:00 pm City Council Chambers  
Tacoma Municipal Building, 747 Market Street, 1<sup>st</sup> Floor

#### WHAT IS THE PURPOSE OF THE PUBLIC HEARING?

The City Council referred the moratorium to the Planning Commission to develop findings and recommendations regarding the moratorium. The Planning Commission is seeking public comment addressing, at a minimum:

- Is the emergency moratorium needed?
- If so, what is the appropriate duration of the moratorium?

The Planning Commission will make its findings and recommendations on the moratorium on September 7, following the hearing.

**Please Note:** *This public hearing is on the need for and duration of the moratorium and not to discuss or review any particular changes to the City's regulations or requirements relative to medical cannabis or associated uses.*

## WHERE CAN I GET ADDITIONAL INFORMATION?

Additional information, including the complete text of the moratorium (Ordinance No. 28010) adopted by the City Council, is available from the Community and Economic Development Department at the address to the right, and on the Planning Division website:

[www.cityoftacoma.org/planning](http://www.cityoftacoma.org/planning)

(click on “Medical Cannabis Moratorium”)

## HOW DO I PROVIDE COMMENTS TO THE COMMISSION?

You can testify at the hearing or provide written comments using the return address on this card no later than noon on **Wednesday, September 7, 2011** or by facsimile at (253) 591-2002 or via e-mail at [planning@cityoftacoma.org](mailto:planning@cityoftacoma.org).

If you have additional questions please feel free to contact Donna Stenger at:

**(253) 591-5210**

*The City of Tacoma does not discriminate on the basis of disability in any of its programs, activities, or services. To request this information in an alternative format or a reasonable accommodation, please contact the City Clerk's Office at 591-5505. TTY or speech-to-speech users please dial 711 to connect to Washington Relay Services.*



PLANNING COMMISSION  
747 MARKET STREET – ROOM 1036  
TACOMA WA 98402  
(253) 591-5365

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## ORDINANCE NO. 28010

1 BY REQUEST OF MAYOR STRICKLAND AND COUNCIL MEMBER  
2 WOODARDS

3 AN ORDINANCE adopting an immediate six-month moratorium on the  
4 establishment, location, operation, licensing, permitting, maintenance or  
5 continuation of medical marijuana collective gardens or medical  
6 marijuana dispensaries that are asserted to be authorized, or actually  
7 authorized, under Chapter 69.51A Revised Code of Washington (RCW),  
8 or any other laws of the state of Washington; defining "medical  
9 marijuana collective gardens" and "medical marijuana dispensaries";  
10 referring the moratorium to the Planning Commission to hold a public  
11 hearing to develop findings of fact and recommendation by  
12 September 7, 2011, including the need for and the duration of the  
13 moratorium; setting September 27, 2011 as the date for a public hearing  
14 on the moratorium; declaring an emergency in the passage of this  
15 ordinance providing that the moratorium will take effect immediately  
16 upon adoption and publication and, unless extended, will sunset within  
17 six (6) months of the date of adoption; and providing for severability.

18 WHEREAS, the City of Tacoma acknowledges the needs of persons  
19 suffering from debilitating or terminal conditions and the benefits that approved  
20 medical use of marijuana may provide these persons and believes that the  
21 medical use of cannabis should be conducted in a safe and fair manner for the  
22 health, safety, and welfare of the community, and

23 WHEREAS it is the policy desire of the City Council to continue to  
24 preserve legal access to medical cannabis for qualifying patients through the  
25 City's administration of its enforcement responsibilities under City, State and  
26 Federal Law during the moratorium period, and

WHEREAS, the possession or distribution of marijuana has been, and  
continues to be, a violation of state law pursuant to Chapter 69.50 RCW  
(Washington's Uniform Controlled Substances Act), and federal law, through



1 the Controlled Substances Act ("CSA"); and strict sentencing guidelines  
2 enhance the penalties for violations within 1,000 feet of a school, and

3 WHEREAS, Initiative Measure No. 692, approved by 59% of the voters  
4 of Washington State on November 3, 1998, now codified as Chapter 69.51A  
5 RCW, created an affirmative defense to marijuana charges under state, but not  
6 federal law, if the person charged could demonstrate that he or she was a  
7 qualifying patient or designated provider, as those terms are defined in  
8 Chapter 69.51A RCW, and

9 WHEREAS, the initiative and current Chapter 69.51A RCW are clear  
10 that nothing in its provisions are to be "construed to supersede Washington  
11 state law prohibiting the acquisition, possession, manufacture, sale or use of  
12 Cannabis for non-medical purposes," and

13 WHEREAS, the Washington State Department of Health opines that it is  
14 "not legal to buy or sell" medical marijuana, and further opines that "the law  
15 (Chapter 69.51.A RCW) does not allow dispensaries," leaving enforcement to  
16 local officials, and

17 WHEREAS, the City acknowledges the right of qualified health care  
18 professionals to recommend the medical use of cannabis, acknowledges the  
19 affirmative defense, under state law, available to qualifying patients from the  
20 possession of cannabis, as well as the right of patients to designate a  
21 "designated provider" who can "provide" rather than sell cannabis to "only one  
22 patient at any one time," and  
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1           WHEREAS, the City of Tacoma acknowledges federal prohibition but  
2 wants to respond to the changes in state law in a responsible manner that will  
3 minimize impacts on patients, providers, and the health, safety, and welfare of  
4 the community, and

5           WHEREAS, in 2011, the state legislature passed significant  
6 amendments to the law, Engrossed Second Substitute Senate Bill 5073  
7 (“E2SSB 5073”) and the Governor signed E2SSB 5073, but vetoed several  
8 portions expressing her reservations about provisions that involved state  
9 employees in activities that could be interpreted as being in violation of federal  
10 laws, and

11           WHEREAS, prior to issuing her partial veto, the Governor received a  
12 letter signed by Washington’s top two U.S. Attorneys, Mike Ormsby and Jenny  
13 Durkin, dated April 14, 2011, in which they wrote that marijuana is a Schedule 1  
14 controlled substance under federal law, and as such, “growing, distributing and  
15 possessing marijuana in any capacity, other than as a part of a federal  
16 authorized research program, is a violation of federal law regardless of state  
17 laws permitting such activities.” Further, the U.S. Attorneys concluded, “state  
18 employees who conducted activities mandated by the Washington legislative  
19 proposals would not be immune from liability under the CSA,” and  
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21           WHEREAS, E2SSB 5073 became effective on July 22, 2011, and  
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23           WHEREAS Tacoma has seen the establishment of medical marijuana  
24 “dispensaries” within the City limits that offer marijuana and marijuana products  
25 to numerous persons, asserting that they are operating as designated providers  
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1 within the meaning of Chapter 69.51A RCW, and these business are variously  
2 referred to as dispensaries, cooperatives, patient cooperatives, or patient  
3 networks, both for profit and not for profit, and

4 WHEREAS Section 404 of E2SSB 5073 effectively eliminates medical  
5 marijuana dispensaries as a legally viable model of operation under state law,  
6 and

7 WHEREAS these businesses are illegal under both state and federal  
8 law, and the City provided notice to these businesses that they are to cease  
9 illegal activity, and

10 WHEREAS persons or entities operating these purported medical  
11 marijuana dispensaries interpreted the law prior to E2SSB 5073 to allow  
12 storefront operation of distribution centers for medical marijuana and many of  
13 these dispensaries obtained business licenses to operate their business using  
14 false, misleading or vague statements and the City continues to receive new  
15 requests and inquiries from persons interested in operating additional  
16 dispensaries in Tacoma, and

17 WHEREAS E2SSB 5073 amends Chapter 69.51A RCW, changing the  
18 scope and effect of the law and the rights of qualifying patients and their  
19 designated providers, and operators of medical dispensaries are already  
20 interpreting the newly amended law to assert that they are permitted to  
21 continue to operate, and

22 WHEREAS the recent amendments authorize "collective gardens" where  
23 up to ten qualifying patients may join together to produce, process, transport,  
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1 and deliver up to 45 marijuana or cannabis plants for their own medical use and  
2 there is no limit set to the number of medical marijuana collective gardens that  
3 may be located at any site, nor any restrictions as to where collective gardens  
4 may be located in relation to other uses, and

5 WHEREAS many persons and entities who formerly represented  
6 themselves as "dispensaries" have notified the City that they will now operate  
7 as collective gardens with a business or administrative office at the same  
8 location where the dispensary was located and the City believes that marijuana  
9 will be delivered at these locations, and

10 WHEREAS the recent amendments clearly delegate to cities the  
11 authority to adopt and enforce zoning requirements, business licensing  
12 requirements, health and safety requirements and business taxes on the  
13 production, processing, dispensing, and delivery of medical cannabis, and  
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15 WHEREAS the Tacoma Municipal Code does not currently address  
16 medical cannabis or medical marijuana and the Municipal Code could be  
17 changed to address ambiguities in the state law, and  
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19 WHEREAS the City requires time to conduct appropriate research to  
20 understand the extent of the changes provided in the new law; to analyze  
21 impacts and potential liabilities under federal law; and to determine the  
22 appropriate regulatory framework for any provision that is allowed under these  
23 laws, and  
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25 WHEREAS, the production, processing, dispensing, and delivery of  
26 medical cannabis, medical marijuana collective gardens or medical marijuana



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dispensaries present issues of public safety for surrounding properties as well as for the property on which the uses and/or facilities exist. Furthermore, the location of such medical marijuana collective gardens or medical marijuana dispensaries near schools, daycare facilities and other lawful uses presents issues relating to the public welfare and the protection of minors, and

WHEREAS the City must ensure that proposed locations for medical marijuana collective gardens or medical marijuana dispensaries are appropriate and that any potential secondary impacts arising from the operation of these uses or facilities are minimized or mitigated, and

WHEREAS the Council finds that a zoning, licensing and permitting moratorium should be established pending local review of appropriate locations and other requirements for these operations, facilities and uses and the impacts of the newly amended law and its interaction with federal law, and

WHEREAS, unless a moratorium is imposed, medical marijuana dispensaries and medical marijuana collective gardens may be located within the City of Tacoma while the City lacks the necessary tools to ensure the location is appropriate and that the potential secondary impacts are minimized and mitigated, and

WHEREAS, pursuant to RCW 35.63.200 and RCW 36.70A.390, the City may adopt an immediate moratorium for a period of up to six months, provided that the City holds a public hearing on and adopts findings of fact related to the proposed moratorium within 60 days after its adoption; Now, Therefore



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BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That the Recitals above are hereby adopted by reference as the City Council's preliminary findings of fact, as if fully set forth herein. The City Council may, in its discretion, modify and/or adopt additional findings at the conclusion of the public hearing referenced in Section 7 below.

Section 2. That pursuant to the provisions of RCW 36.70A.390, a moratorium is hereby enacted to prohibit within the City of Tacoma the establishment, location, operation, licensing, permitting, maintenance or continuation of any medical marijuana collective garden or any medical marijuana dispensary, whether for profit or not for profit, asserted to be authorized or whether actually authorized under those portions of E2SSB 5073 signed into law, or any other laws of the State of Washington. No building permit, occupancy permit or other development permit or approval shall be issued for any of the purposes or activities listed above, and no business license shall be granted or accepted while this moratorium is in effect. Any land use permits, business licenses or the permits for any of these operations that are issued as a result of error or by use of vague or deceptive descriptions during the moratorium are null and void, and without legal force and effect.

Section 3. That the City Council deems it to be in the public interest to establish an emergency moratorium pending consideration of changes to regulations, requirements and taxes to address medical marijuana collective



1 gardens and dispensaries in order to preserve the public health, safety and  
2 welfare.

3 Section 4. That for the purposes of this moratorium, "Medical  
4 marijuana dispensary" means any person, business, corporation, partnership,  
5 joint venture, organization, association, agency, cooperative network,  
6 consultation operation and/or other entity or person no matter how described or  
7 defined, including its associated premises and equipment, which has for its  
8 purpose or which is used to grow, sell, provide, select, measure, package,  
9 label, dispense, deliver and/or otherwise transfer (for consideration or  
10 otherwise) marijuana for medical uses to more than one "qualifying patient" in  
11 any fifteen (15) day period, or to any person who does not meet the definition  
12 of "qualifying patient" under the terms of Chapter 69.51A RCW; and/or  
13 maintains and/or possesses more than the amounts of marijuana permitted to  
14 be possessed under RCW 69.51A.040 and Section 401 of E2SSB 5073. The  
15 receipt of cash or other legal tender in exchange for, contemporaneously with,  
16 or immediately following the delivery of marijuana to a qualifying patient shall be  
17 presumed to be a sale. Any person, business, corporation, partnership, joint  
18 venture, organization, association, and/or entity which sells, provides, and/or  
19 otherwise dispenses marijuana to more than one qualifying patient in any  
20 fifteen (15) day period is presumed to be a "medical marijuana dispensary,"  
21 unless as part of a "collective garden." A person who is the designated provider  
22 for only one qualified patient during any fifteen (15) day period and who  
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1 complies with Chapter 69.51A RCW, shall not be deemed a medical marijuana  
2 dispensary for purposes of the moratorium.

3 Section 5. That for the purposes of this moratorium, "medical  
4 marijuana collective garden" means a group of qualifying patients that share  
5 responsibility for acquiring and supplying the resources required to produce and  
6 process marijuana for medical use of the 10 members of the collective garden.  
7 Examples of a collective garden resource would include, without limitation, the  
8 following: property used for a collective garden; equipment, supplies, and labor  
9 necessary to plant, grow and harvest marijuana; marijuana plants, seeds, and  
10 cuttings; and equipment, supplies and labor necessary for proper construction,  
11 plumbing, wiring, and ventilation of a garden of marijuana plants. A medical  
12 marijuana collective garden shall satisfy the above definition regardless of its  
13 formation, ownership, management, or operation as a business, agency,  
14 organization, cooperative, network, consultation operation, group, or person. A  
15 person who is designated for only one qualified patient during any fifteen (15)  
16 day period and who complies with Chapter 69.51A RCW, or a person who is a  
17 qualified patient and who complies with Chapter 69.51A RCW, shall not be  
18 deemed a medical marijuana collective garden for the purposes of this  
19 moratorium.  
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22 Section 6. That no use that constitutes or purports to be a medical  
23 marijuana dispensary or a medical marijuana collective garden, as those terms  
24 are defined in this ordinance, that was engaged in dispensing prior to the  
25 enactment of this ordinance shall be deemed to have been a legally  
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1 established use under the provisions of the Tacoma Municipal Code and that  
2 use shall not be entitled to claim legal nonconforming status.

3 Section 7. That, pursuant to Section 13.02.055 of the Tacoma  
4 Municipal Code, the City Council hereby refers the moratorium to the Planning  
5 Commission for its review at its next available meeting on August 17, 2011 and  
6 to hold a public hearing on September 7, 2011; to develop findings of fact and  
7 recommendation, including the need for and duration of the moratorium.

8 Section 8. That, under TMC 13.02.055, RCW 35.63.200, and  
9 RCW 36.70A.390, a public hearing must be held within 60 days of the passage  
10 of this Ordinance and September 27, 2011 is hereby set as the date for the  
11 public hearing in order to take public testimony and to consider adopting further  
12 findings justifying the imposition of the moratorium set forth in Section 2 above.

13 Section 9. That this Ordinance shall be transmitted to Washington  
14 State Department of Commerce, pursuant to RCW 36.70A.106.

15 Section 10. That the Planning Commission is hereby directed to  
16 develop appropriate zoning regulations pursuant to the newly amended law  
17 regarding medical marijuana collective gardens and/or medical marijuana  
18 dispensaries. Further, the Commission should evaluate secondary impacts of  
19 these uses and facilities which may include, but are not limited to, burglaries  
20 associated with cash and marijuana maintained on the site, or an increase of  
21 other illegal activities, such as drug use, within the vicinity of these uses and  
22 facilities. In particular, and without limitation, the Commission should analyze  
23 the impacts of allowing these uses and facilities in residential zones as well as  
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1 impacts arising from the proximity of these uses and facilities to schools,  
2 daycare facilities, parks, religious and cultural facilities, jails, courthouses and  
3 drug and alcohol rehabilitation facilities.

4 Section 11. That the City Manager is hereby authorized to direct  
5 appropriate staff to review and develop appropriate business licensing  
6 requirements, health and safety requirements and business taxes regarding  
7 medical marijuana collective gardens or medical marijuana dispensaries  
8 pursuant to the newly amended law for inclusion in the Tacoma Municipal  
9 Code.

10 Section 12. The City Manager is hereby directed to work with staff to  
11 administer the City's enforcement responsibilities under City, State, and  
12 Federal Law during the moratorium period in a manner that will continue to  
13 preserve legal access to medical cannabis for qualifying patients.

14 Section 13. That notice of and hearing on this ordinance, in the normal  
15 course, would undermine effective City planning by allowing the establishment  
16 of, or the submittal of permit applications between the time notice was  
17 published and the time the ordinance was passed to vest to City regulations  
18 which may be inadequate to protect the public health, safety, and general  
19 welfare. Therefore, for this reason, the City Council hereby finds and declares  
20 that an emergency exists and that the 180-day interim moratorium imposed by  
21 this ordinance shall become effective immediately upon passage of this  
22 ordinance and its publication, unless repealed, extended, or modified by the  
23 City Council after subsequent public hearings and entry of appropriate findings  
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1 of fact pursuant to RCW 35.63.200. Pursuant to Matson v. Clark County Board  
 2 of Commissioners, 79 Wn. App. 641, 904 P.2d 317 (1995), underlying facts  
 3 necessary to support this emergency declaration are included in the Recitals  
 4 above, all of which are adopted by reference as findings of fact, as if fully set  
 5 forth herein. This Ordinance, and the moratorium established herein, shall  
 6 expire and terminate on January 29, 2012.

7 Section 14. That if any one or more section, subsection, sentence,  
 8 clause or phrase of this ordinance should be held to be invalid or  
 9 unconstitutional by a court of competent jurisdiction, such invalidity or  
 10 unconstitutionality shall not affect the validity or constitutionality of any of the  
 11 remaining section, subsection, sentence, clause or phrase of this ordinance  
 12 and the same shall remain in full force and effect.  
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 15 Passed AUG - 2 2011

*Mayor [Signature]*  
 Mayor

17 Attest:

18  
 19 *Wendy [Signature]*  
 City Clerk *ACTING*

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 22 Approved as to Form:

23 *William [Signature]*  
 24 City Attorney  
 25 *Acting*



**RESOLUTION NO. 38318**

1 BY REQUEST OF MAYOR STRICKLAND AND COUNCIL MEMBER WOODARDS

2 A RESOLUTION relating to medical cannabis; creating a Medical Cannabis Task  
3 Force through a term of February 1, 2012; authorizing the Mayor to  
4 appoint members to the Committee and to designate a chair; and  
5 authorizing the Public Safety, Human Services and Education Committee  
6 to extend the term of the Committee through August 1, 2012, if necessary.

7 WHEREAS, on November 3, 1998, by 59 percent of votes, Washington  
8 voters approved Initiative Measure No. 962, codified in RCW 69.51A, which  
9 created an affirmative defense to marijuana charges under state, but not federal,  
10 law, and

11 WHEREAS, in its 2011 City of Tacoma State Legislative Agenda, the City  
12 Council included the following: "The City supports the voter approved right for  
13 those with certain terminal or debilitating chronic conditions to obtain medical  
14 cannabis for personal use. The law and regulations are vague and confusing for  
15 patients, providers and law enforcement. The City supports changes to the law  
16 and regulations which add clarity and certainty to protect qualifying patient's safe  
17 and legal access to medical cannabis," and

18 WHEREAS the State Legislature and the Governor passed Engrossed  
19 Second Substitute Senate Bill 5073 ("E2SSB 5073") with modifications, including  
20 the Governor's veto of provisions directing state employees to conduct activities  
21 that could be interpreted as being in violation of federal laws, and

22 WHEREAS E2SSB 5073 authorizes cities to adopt and enforce zoning  
23 requirements, business licensing requirements, health and safety requirements,  
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and business taxes on the production, processing, and dispensing of cannabis within their jurisdiction, and

WHEREAS, at its meeting of July 28, 2011, the Public Safety, Human Services and Education Committee discussed policy themes relating to medical cannabis and expressed its intent to advance proposals for a moratorium and a Medical Cannabis Task Force (“Task Force”) focused on medical cannabis, and

WHEREAS, on August 2, 2011, the City passed Ordinance No. 28010, adopting an emergency six-month moratorium on the establishment, location, operation, licensing, permitting, maintenance, or continuation of medical cannabis collective gardens or medical cannabis dispensaries, to allow time to develop and adopt appropriate zoning, business licensing, health and safety, and tax requirements for the production, processing, and dispensing of medical cannabis, and

WHEREAS Ordinance No. 28010 directed the Planning Commission to develop appropriate zoning regulations, and the City Manager to review appropriate business licensing, health and safety, and tax requirements, and

WHEREAS the City Council wishes to have citizens that would be impacted by future regulation appointed to a committee to provide feedback and recommendations to the Planning Commission, City Manager, and City Council, and

WHEREAS the Public Safety, Human Services and Education Committee may, at a future date, wish to provide direction to the Task Force regarding public outreach, and

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WHEREAS, at its meeting of July 28, 2011, the Public Safety, Human Services and Education Committee discussed the following policy themes that should guide the work of the Task Force:

- The changes in state law are an opportunity to provide legal, safe, and secure access to medical cannabis for patients
- Consideration of federal prohibition of marijuana
- The use and distribution of medical cannabis should be conducted in a safe and fair manner for the health, safety, and welfare of the community
- The policy direction of the City Council should not put City employees at risk of violating federal prohibitions
- Single-family neighborhoods and community organizations, such as schools and churches, should have greater insulation from the production, processing, and dispensing of medical cannabis
- The City Council should limit the size, number, and concentration of collective gardens
- The City should pay similar attention to community impacts and compliance with existing laws for the provision of medical cannabis authorization,

and

WHEREAS the City Council desires the Task Force to include, but not be limited to, representatives from the following areas:

- Medical cannabis collective garden/dispensary operator
- Physician/MD/medical professional
- Neighborhood representative
- Anti-drug organization representative
- Non-profit organization serving patients with chronic illness
- Patient with a chronic illness
- Former law enforcement employee
- Private individual with legal experience
- Business community representative
- Representative of the Tacoma-Pierce County Health Department
- Community Member or Small Business Owner,

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WHEREAS the City Council is delegating appointment authority and the designation of the Task Force chair to the Mayor; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

Section 1. That a Medical Cannabis Task Force is hereby created to provide feedback and recommendations regarding medical cannabis regulation to the Planning Commission, City Manager, and City Council, and to perform public outreach at the request of the Public Safety, Human Services, and Education Committee for a term through February 1, 2012, with the potential extension of the term of the Committee by the Public Safety, Human Services, and Education Committee through August 1, 2012.

Section 2. That the City Council will consider, but not be limited to, representatives from the following areas to serve on the Medical Cannabis Task Force:

- Medical cannabis collective garden/dispensary operator
- Physician/MD/medical professional
- Neighborhood representative
- Anti-drug organization representative
- Non-profit organization serving patients with chronic illness
- Patient with a chronic illness
- Former law enforcement employee
- Private individual with legal experience
- Business community representative
- Representative of the Tacoma-Pierce County Health Department
- Community Member or Small Business Owner.

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Section 3. That the Mayor is authorized to appoint members and a Task Force Chair to the Medical Cannabis Task Force.

Adopted AUG 23 2011

Mark Jordan  
Mayor

Attest:

Wendy Lewis  
City Clerk *ACTING*

Approved as to form:

[Signature]  
City Attorney



Medical Cannabis Moratorium  
Planning Commission Public Hearing  
September 7, 2011

Public Comments Received (as of  
8/31/2011)



# The Law Office of Kent W. Underwood LLC

1111 Fawcett Ave., Suite 101, Tacoma, WA 98402-2024 Ph. (253) 627-2600 Fax (253) 591-7086

August 17, 2011

RECEIVED  
AUG 17 2011  
CITY CLERK'S OFFICE

Mayor Strickland  
Tacoma City Council

RE: Ordinance No. 28010, Moratorium on Medical Cannabis

Dear Mayor and members of the Tacoma City Council:

I write to express my concerns that the specific language in Tacoma City Ordinance No. 28010 (the ordinance), the Moratorium on Medical Cannabis, is inconsistent with the Mayor's statement of intent, and that the ordinance constitutes an unlawful restraint on activities permitted under RCW 69.51A.

I am requesting that the mayor and the council amend the ordinance to more accurately reflect the intent stated by Mayor Strickland specifically that it is not the intent of the council to close down any currently operating medical cannabis organization, some of which are commonly referred to as "dispensaries" and/or collective gardens.

Under the specific language of the ordinance, there is an

...immediate six-month moratorium on the establishment, location, operation, licensing, permitting, maintenance or continuation of medical marijuana collective gardens or medical marijuana dispensaries that are asserted to be authorized, or actually authorized, under Chapter 69.51A Revised Code of Washington (RCW)...

Ordinance pg. 1

This provision clearly disallows any current collective garden or other medical cannabis organization from operating or continuing in their current activities, in direct contradiction of the mayor's stated intent.

The ordinance refers to the Washington State Department of Health having opined that RCW 69.51A does not allow dispensaries. No legal analysis of either RCW 69.51A or ESSSB 5073 is included. It is unknown upon what basis the Department of Health opines. It appears that the Department of Health has not reviewed section 413.

CC: Mayor  
Council  
CEO  
CMO  
Legal

Additionally, the ordinance cites to ESSSB 5073 section 404 as eliminating medical marijuana “dispensaries.” Again, there is no legal analysis and no basis for concluding that “dispensaries” are prohibited.

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Section 2 of the ordinance prohibits the continuation of activities described earlier in the ordinance. Such activities may be commonly referred to as dispensaries. This is in direct conflict with the mayor’s stated objectives and intent.

Moreover, the ordinance describes what is commonly referred to as dispensaries and concludes those activities are unlawful. There is no legal analysis.

Section 4 is overbroad in that it seems to define as prohibited activities that are otherwise permitted under ESSSB 5073 section 413. Specifically, the ordinance prohibits any person, organization or entity from providing to more than one qualifying patient within any 15-day period, it is presumed to be a dispensary, unless part of a collective garden, and prohibited. Again, no legal analysis was done, and there is no reference to ESSSB 5073, section 413, which permits a private non-commercial exchange. Consequently, the ordinance prohibits otherwise permitted activities.

The ordinance claims to continue to allow for patients to have access to medicine but does not provide a method for so doing in the event a patient is unable to grow or otherwise procure medicine.

ESSSB 5073 section 413 provides for resolution of the above-mentioned problems. E.g. Patients who grow cannabis may take their overage to a private exchange, and patients who are otherwise unable to procure medicine can obtain it at the private exchange.

The ordinance was adapted without an opportunity for the public to review the ordinance or for a thorough vetting. I request the council to reevaluate the ordinance or amend it to reflect the council and the mayor’s intent of not closing down existing facilities, and to provide a more thorough legal analysis.

If you have any questions, please do not hesitate to contact me at (253) 627-2600.

Sincerely,

  
Kent W. Underwood

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**From:** tracy earles [mailto:tracy777redeemed@yahoo.com]  
**Sent:** Friday, August 26, 2011 12:18 PM  
**To:** Frantz, Shanta  
**Subject:** RE: City of Tacoma Medical Cannabis Task Force Draft Resolution Proposal

Dear Ms. Frantz and Mr. Harrington,

Thank you so much for your swift reply to my inquiry regarding the Tacoma Medical Cannabis Task Force. My hope was to offer options to the Mayor and City Council in the development and implementation of an effective model for a task force that will represent our city.

This is new to all of us and can seem quite overwhelming to all parties involved. I have spent countless hours researching other models in cities that have implemented a pro-medical cannabis ordinance and developed a task force to assure standardized regulations that safeguard patients, the city and medical cannabis facilities. I am quite pleased that the Mayor, City Council and departments such as yours have responded so swiftly and with such meticulous attention to support the ease of access for patients in our city. It has been refreshing and reignites the hope that liberation is within reach for all that seek alternative care options in their personal wellness plan.

John, I am sorry for your loss. I can not begin to fathom the grief you have endured in losing your sibling to the evil that is cancer. It is a horrible way for anyone to lose their life. I am glad that she utilized her option to stave off some of the side effects from the pharmaceuticals with medical cannabis. I hope that it provided some ease and comfort for her during her battle. It seems as though it did or else you would not be the voice for its medicinal benefits that you are. People such as yourself have a powerful testimony and will continue to advocate for patients right to choose just because you have personally seen the benefits of this powerful medicine in action. I thank you for speaking up and taking a stand on behalf of your sister and patients everywhere.

I know that a lot of people would like to see medical cannabis in pharmacies. Personally, I do not see that happening for quite a while. Medical Cannabis is an herb and I agree with treating it as such. There are many herbs that are available to people through many different channels and I support the ease of access and minimal cost that this option provides.

I often times hear concerns regarding the amount of dispensaries that have popped up over the last couple of years and my response and true belief is that each individual patients needs are different and they have the right to utilize their options in finding facilities that can provide the specialized care they require. Each care provider within this industry offers varied options in medicine, advocacy, education and support. With the abundance of choices that are available to patients, it is assured that at least one or two of the care facilities in operation will be able to care for the patient in the best way that fits his or her needs. Choice is critical!

All that being said, I appreciate your time and all the effort being put forth to make this a viable option for medical cannabis patients within the city of Tacoma. I know that this bold step will be

a great example for our surrounding communities and will be the catalyst for great things to come within Washington State as a whole.

Thank you so much!

Sincerely,

Tracy Earles  
Vice President / Hashford Compassion Club  
President / Puget Sound Reform Coalition