At the next meeting on February 1, 2012, the Planning Commission will continue the discussion of issues concerning the Medical Cannabis Moratorium. The Commission will review information pertaining to legislative background and major issues (Attachment A), results of research on benchmarking jurisdictions (Attachment B), and project schedule (Attachment C).

Staff intends to seek the Commission’s feedback and direction on major issues and concerns, the Commission’s responsibility and scope of work, and the coordination of efforts between the Commission and the Medical Cannabis Task Force.

Background information about the moratorium can be viewed at [www.cityoftacoma.org/planning](http://www.cityoftacoma.org/planning) (under HOT TOPICS, click on “Medical Cannabis Moratorium”). In short, the moratorium was enacted by the City Council on August 2, 2011, per Ordinance No. 28010, effective for 6 months, through January 29, 2012. The Planning Commission conducted a public hearing on September 7, 2011, and recommended to the City Council that the moratorium was needed and should be extended to 12 months. The Council conducted a public hearing on September 27 and adopted Ordinance No. 28021 on October 4, 2011 to retain the moratorium and extend it to 12 months, to expire on August 1, 2012. In response to the moratorium, the Commission is requested to develop and recommend appropriate revisions to the land use code by May 2012.

If you have any questions, please contact Lucas Shadduck at (253) 594-7975 or lshadduc@cityoftacoma.org, or myself at (206) 550-9453 or osborneplanning@gmail.com.

Attachments (3)

c: Peter Huffman, Assistant Director
The City of Tacoma recognizes that any cannabis use is illegal in view of Federal law. However, consistent with the Washington State Growth Management Act (GMA) and the Medical Use of Marijuana Act (renamed Medical Cannabis Act), under a 12-month moratorium, the City of Tacoma is considering how to regulate the land use impacts of medical marijuana dispensaries, collective gardens, and person-to-person arrangements as an exercise of the police powers to protect the public health, safety and general welfare of all Tacomans.

‘Self-Growing’ or One-to-One (Qualifying Patients/Designated Providers) in Residential Areas

The growing of medical cannabis by and for qualified patients and their designated (individual) providers would not generally be included in the scope of land use regulations unless these parties were also members of a collective garden (see below). Aside from the exercise of code enforcement regarding noxious impacts, the impacts of residential growing, preparation and use on neighboring uses could be addressed proactively through requiring permitting for tenant/home improvements associated with growing medical cannabis (plumbing, electrical, lighting and ventilation systems as well as visual screening), if necessary. Home occupation permitting (or prohibition), loitering, residential neighborhood traffic control and on-street parking impacts and taxation could also be considered where these impacts are associated with the residence of a qualified medical cannabis patient or designated provider. Several California jurisdictions have placed space limits on residential growing in regulations – typically less than 50 square feet for either indoor or outdoor growing.

Dispensaries & Collective Gardens

Commercially-operated dispensaries are not generally understood as being legal following the Governor’s partial veto of E2SSB 5073. Of the western states that have medical marijuana laws, Colorado is the only state that has explicitly established a commercial regulation framework. Other states that do allow dispensaries do so within a non-profit framework.

The formation of collective gardens, as defined in § 403, E2SSB 5073 allow for a maximum of ten (10) qualified patients to share the responsibility for acquiring and supplying the resources required to produce and process cannabis for medical use such as, for example, a location for a collective garden; equipment, supplies, and labor necessary to plant, grow, and harvest cannabis; cannabis plants, seeds, and cuttings; and equipment, supplies, and labor necessary for proper construction, plumbing, wiring, and ventilation of a garden of cannabis plants. The number of cannabis plants is limited to ten (10) plants per person to a maximum of 45 plants for the entire Collective Garden, which seems to suggest that a maximum of four (4) qualified patients would be able to grow/acquire the maximum number of plants when participating in a collective garden. It is unclear is how many collective gardens a qualifying patient can join.
In terms of regulating land use intensity of medical cannabis uses, several aspects should be considered. Regulating the number of medical cannabis uses allowed on a single parcel, the number of such uses allowed throughout the city, the size of each facility, and the separation of medical cannabis uses from other such uses and sensitive community uses have been approaches used elsewhere.

Similar to other cities throughout the country, some Washington jurisdictions have limited the number of medical cannabis facilities on one legal parcel to one. Some California cities have adopted a limit on the total number of medical cannabis facilities allowed within their jurisdictions; these cities include Berkeley (3), Los Angeles (70) and Oakland (4). At the site level, estimates of operating space needed to cultivate, process and distribute cannabis vary. No jurisdictions in Washington have yet put forward space limitations. Cities in Arizona, Colorado and California have placed site/facility area limits in their land use regulations, ranging from 2,000 square feet for dispensary functions in Phoenix to 30,000 square feet in Berkeley for locations containing all functions of one collective. Thus far, only Seattle, Shoreline, Issaquah, Gig Harbor and Castle Rock have established separation distances between collective gardens and sensitive, youth-oriented land uses, such as schools, daycare facilities, community centers, residential treatment facilities and parks.

OPTIONS

**NO ACTION**

Prior to the adoption of the August 2011 moratorium on medical cannabis facilities, approximately 35 dispensaries were operating in areas in and near downtown, and along commercial arterial streets throughout the city. More than half of those known operations closed following the moratorium. Taking no action essentially prohibits all existing dispensaries within Tacoma, even if claimed or registered as a collective garden. State law would still provide an affirmative defense for collective gardens consisting of a residential grow network of participating qualified patients or designated providers, as well as for one-on-one qualified patient-to-designated provider relations. The negative impacts of medical cannabis land uses might be addressed through law enforcement action, or perhaps licensing.

**NON-PROFIT COLLECTIVE GARDENS WITH ALL FUNCTIONS IN SINGLE INDUSTRIAL ZONE LOCATION**

In this option, all functions of collective gardens, from production (growing), processing (preparation for medical use, including but not limited to infusing tinctures and baked goods), to dispensing (not for retail) could be limited to single parcels and permitted only in the more isolated industrial areas of the City, such as the port or in the Nalley Valley. This would be similar to the Berkeley, California approach.
General concerns about safety and security impacts on residents and publicly-accessible places and spaces in neighborhoods throughout Tacoma (including Downtown) would be significantly reduced, and a separation buffer would not necessarily be meaningful. On the other hand, the accessibility to medical cannabis throughout the city could be severely limited for qualifying patients with limited transportation options or physical conditions limiting mobility. Existing dispensary locations outside of chosen industrial areas would be permanently closed. The use of mobile dispensaries (or patient shuttles) might arise in response to consolidating production, processing and dispensing to single locations in industrial areas. Also, the safety and security concerns would shift almost entirely to the qualified patient members of the collective gardens, given the limited number of ‘eyes on the street’ in industrial areas.

Considering land use compatibility, as well as City policies regarding protection of designated Manufacturing/Industrial Centers from non-industrial uses might be necessary in proceeding with discussion of the merits and demerits of this option.

NON-PROFIT COLLECTIVE GARDENS WITH MASTER PERMIT TRACKING FOR ALL SEPARATELY-PERMITTED FUNCTIONS

This option, similar in approach to jurisdictions in Arizona and California, including Sacramento, would have each of the functions of a non-profit collective garden separated by use intensity and impact. The production, cultivation or growing of cannabis for medical use could be restricted to one or more industrial zoning districts. The processing, preparation and packaging of cannabis for medical use could be restricted to one or more industrial or even commercial zoning districts. The provision of medical cannabis to qualifying patients could be restricted to one or more commercial districts.

Each collective garden could be required to submit separate and completed land use permit applications for production location(s), processing location(s) and provision location(s), as well as any other required permits. Development regulations could be differentiated for each function by zoning district, to include suitable separation buffer distances from sensitive uses such as daycares, schools, parks, playgrounds, churches, juvenile detention facilities, and drug and alcohol detoxification facilities.

Separation from other medical cannabis facilities could also be included. The benchmark sensitive uses are schools and uses particularly for children under 18 years of age. The federal guidance has been a 1,000 foot minimum separation between medical cannabis uses and schools for children, though many states have adopted lesser distances with language supporting local determination of appropriate regulation. Most jurisdictions enacting interim or permanent medical cannabis use siting regulations use 1,000 feet, with very few jurisdictions explicitly reducing separation to as low as 300 feet. Several jurisdictions reserve the greatest separation distance to apply to other medical cannabis uses – from 1,000 feet to one mile (Phoenix, Arizona).
In light of the options described above and examples from other jurisdictions, amendment of the following regulations may be needed:

- TMC Title 5 Health and Sanitation;
- TMC Subtitle 6A Tax and License;
- TMC Title 8 Public Safety and Morals; and
- TMC Title 13 Land Use Regulatory Code.
# Medical Cannabis Regulations – Benchmarking Jurisdictions

*January 25, 2012*

<table>
<thead>
<tr>
<th>Washington Cities</th>
<th>Permitted Zoning</th>
<th>Schools &amp; Youth-Oriented Uses</th>
<th>Public or Institutional Uses or Spaces</th>
<th>Churches/Religious/Non-Profit</th>
<th>Other Private Uses (Residential)</th>
<th>Other Medical Marijuana Land Uses</th>
<th>Limits on Number and/or Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seattle</td>
<td>Not specified</td>
<td>(1,000 ft. cited in preamble for schools)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Castle Rock*</td>
<td>C-2 Business Highway; 1 per parcel</td>
<td>300 ft.</td>
<td>300 ft. incl. libraries</td>
<td>300 ft. incl. residential treatment facilities</td>
<td>100 ft. from outdoor grow plot to home next door</td>
<td>300 ft.</td>
<td></td>
</tr>
<tr>
<td>Gig Harbor*</td>
<td>ED Employment District</td>
<td>500 ft.</td>
<td>500 ft.</td>
<td>500 ft.</td>
<td>500 ft.</td>
<td>500 ft.</td>
<td></td>
</tr>
<tr>
<td>Issaquah</td>
<td>Any Commercial zone</td>
<td>1,000 ft. public schools 500 ft. pre-schools/daycares</td>
<td>1,000 ft. Community Center 500 ft. park</td>
<td></td>
<td></td>
<td></td>
<td>1,000 ft.</td>
</tr>
<tr>
<td>Shoreline*</td>
<td>NB, O, CB, NCBD, MUZ, and I zones; 1 per parcel</td>
<td>1,000 ft.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1,000 ft.</td>
</tr>
<tr>
<td>No Action</td>
<td>Arlington, Bellingham, Bremerton, Edgewood, Edmonds, Federal Way, Fife, Fircrest, Kent, Kirkland, Lacey, Lakewood, Maple Valley, Normandy Park, North Bend, Olympia, Port Orchard, Poulsbo, Puyallup, Redmond, Snohomish, Tukwila, University Place, Woodland</td>
<td></td>
<td></td>
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</tbody>
</table>

* Moratoria interim zoning

<table>
<thead>
<tr>
<th>Other Cities</th>
<th>Zoning</th>
<th>Schools &amp; Youth-Oriented Uses</th>
<th>Public or Institutional Uses or Spaces</th>
<th>Churches/Religious/Non-Profit</th>
<th>Other Private Uses (Residential)</th>
<th>Other Medical Marijuana Land Uses</th>
<th>Limits on Number and/or Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Peoria, AZ</td>
<td>Commercial &amp; Industrial Zones</td>
<td>1,000 ft.</td>
<td>1,000 ft. treatment ctrs</td>
<td>1,000 ft. bars, adult use 500 ft. from resid zone</td>
<td></td>
<td>2,460 ft.</td>
<td></td>
</tr>
<tr>
<td>Phoenix, AZ</td>
<td>Commercial &amp; Industrial</td>
<td>1,320 ft.</td>
<td>1,320 ft.</td>
<td>500 ft.</td>
<td>250 or 1,000 ft. resid</td>
<td>5,280 ft.</td>
<td>2,000 s.f. dispnsry</td>
</tr>
<tr>
<td>Berkeley, CA</td>
<td>6 locations in M District</td>
<td>600 ft.</td>
<td></td>
<td></td>
<td></td>
<td>600 ft.</td>
<td>3 in City 30,000 s.f.</td>
</tr>
<tr>
<td>Sacramento, CA</td>
<td>Commercial &amp; Industrial</td>
<td>600 ft.</td>
<td>600 ft. churches, treatment ctrs</td>
<td>300 ft. resid 600 ft. theater, tobac</td>
<td></td>
<td>1,000 ft.</td>
<td>8,000 s.f. 150 s.f. display</td>
</tr>
<tr>
<td>Santa Barbara, CA</td>
<td>C-2, C-M</td>
<td>500 ft.</td>
<td>500 ft., park</td>
<td></td>
<td></td>
<td>500 ft.</td>
<td></td>
</tr>
<tr>
<td>Boulder, CO</td>
<td>Analogous uses</td>
<td>500 ft.</td>
<td></td>
<td></td>
<td></td>
<td>500 ft., none in Industrial</td>
<td>3,000 s.f.</td>
</tr>
<tr>
<td>Denver, CO</td>
<td>1,000 ft.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1,000 ft.</td>
</tr>
</tbody>
</table>
# Medical Cannabis Moratorium

## PROPOSED 12-MONTH WORK PLAN
(Revised January 24, 2012)

### Color Code:
- **Light Orange**: City Council actions
- **Light Blue**: Public Safety Committee actions
- **White**: Planning Commission/Staff actions
- **Light Tan**: Medical Cannabis Task Force actions

## 2011

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>August 2, 2011</td>
<td>City Council adopted emergency, 6-month moratorium (Ordinance No. 28010).</td>
</tr>
<tr>
<td>August 11</td>
<td>City Council’s Public Safety, Human Services, and Education Committee (“Public Safety Committee”) discussed the establishment of the Medical Cannabis Task Force.</td>
</tr>
<tr>
<td>September 7</td>
<td>Planning Commission conducted a public hearing on the need for and duration of the moratorium, and recommended the moratorium be extended to 12 months.</td>
</tr>
<tr>
<td>October 4</td>
<td>After conducting a public hearing, City Council adopted Ordinance No. 28021, extending the emergency moratorium to 12 months expiring August 1, 2012.</td>
</tr>
<tr>
<td>October 12</td>
<td>Medical Cannabis Task Force, est. on August 23, 2011 by Council Resolution No. 38318, convened their 1st meeting.</td>
</tr>
<tr>
<td>October 13</td>
<td>Public Safety Committee extended the Medical Cannabis Task Force's term to May 1, 2012.</td>
</tr>
<tr>
<td>November 9</td>
<td>Medical Cannabis Task Force conducted the 2nd meeting, reviewed issues, and established four subcommittees.</td>
</tr>
<tr>
<td>December 14</td>
<td>Medical Cannabis Task Force conducted the 3rd meeting, received subcommittee reports, and reviewed 2012 timeline.</td>
</tr>
</tbody>
</table>

## 2012

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>January – July 2012</td>
<td>Staff review of and coordination with other City efforts on regulating, licensing, and taxing medical cannabis.</td>
</tr>
<tr>
<td>January 11</td>
<td>Medical Cannabis Task Force review of subcommittee reports and work assignments for 2012.</td>
</tr>
<tr>
<td>February 1</td>
<td>Planning Commission review of (1) benchmarking report of other jurisdictions’ approaches, and (2) proposed regulatory approach and possible land use code options.</td>
</tr>
<tr>
<td>Date</td>
<td>Event</td>
</tr>
<tr>
<td>------------------</td>
<td>----------------------------------------------------------------------</td>
</tr>
<tr>
<td>February 8</td>
<td>Medical Cannabis Task Force review and comment on benchmarking and options to the Planning Commission and the Public Safety Committee.</td>
</tr>
<tr>
<td>February 15</td>
<td>Planning Commission review of preliminary draft code amendments.</td>
</tr>
<tr>
<td>March 7</td>
<td>Planning Commission review of preliminary draft code amendments.</td>
</tr>
<tr>
<td>March 8 (optional)</td>
<td>Public Safety Committee review of preliminary draft code amendments.</td>
</tr>
<tr>
<td>March 14</td>
<td>Medical Cannabis Task Force review and comment on preliminary draft code amendments.</td>
</tr>
<tr>
<td>March 21</td>
<td>Planning Commission authorizes draft land use code amendments for public review and sets a public hearing date.</td>
</tr>
<tr>
<td>March 22 (optional)</td>
<td>Public Safety Committee review of draft land use code amendments.</td>
</tr>
<tr>
<td>March 26</td>
<td>Distribution of public notice for Planning Commission public hearing.</td>
</tr>
<tr>
<td>March 30</td>
<td>Submittal of the Notice of Intent for Adoption to the State</td>
</tr>
<tr>
<td>April 11</td>
<td>Medical Cannabis Task Force review of draft land use code amendments.</td>
</tr>
<tr>
<td>April 12</td>
<td>Public Safety Committee review of draft land use code amendments.</td>
</tr>
<tr>
<td>April 18</td>
<td>Planning Commission public hearing on draft land use code amendments.</td>
</tr>
<tr>
<td>April 20</td>
<td>Deadline for written comments to Planning Commission.</td>
</tr>
<tr>
<td>April 26 (optional)</td>
<td>Public Safety Committee review of draft land use code amendments.</td>
</tr>
<tr>
<td>May 1</td>
<td>Medical Cannabis Task Force sunsets.</td>
</tr>
<tr>
<td>May 2</td>
<td>Planning Commission review of hearing testimony, staff responses, and possible revisions to draft land use code amendments; possible preliminary recommendation to Council.</td>
</tr>
<tr>
<td>May 10 (optional)</td>
<td>Public Safety Committee review of preliminary recommendation.</td>
</tr>
<tr>
<td>May 16</td>
<td>Planning Commission recommendation to City Council.</td>
</tr>
<tr>
<td>May 24</td>
<td>Public Safety Committee review of Planning Commission recommendation.</td>
</tr>
<tr>
<td>June 5</td>
<td>City Council sets hearing date on Planning Commission recommendation.</td>
</tr>
<tr>
<td>June 12</td>
<td>City Council study session to review Planning Commission recommendation.</td>
</tr>
<tr>
<td>June 14 (optional)</td>
<td>Public Safety Committee review of Planning Commission recommendation.</td>
</tr>
<tr>
<td>June 19</td>
<td>City Council conducts public hearing on Land Use Regulatory Code amendments as recommended with findings by the Planning Commission.</td>
</tr>
<tr>
<td>June 26 (optional)</td>
<td>City Council study session to discuss hearing testimony and possible revisions.</td>
</tr>
<tr>
<td>June 28</td>
<td>Public Safety Committee recommendation on the proposed code amendments.</td>
</tr>
<tr>
<td>July 10</td>
<td>City Council – first reading of ordinance(s) to adopt code amendments.</td>
</tr>
<tr>
<td>July 17</td>
<td>City Council – final reading and adoption of amendments.</td>
</tr>
<tr>
<td>July 27</td>
<td>Submit the adopted amendments to State.</td>
</tr>
<tr>
<td>July 30</td>
<td>Effective date of amendments.</td>
</tr>
<tr>
<td>August 1, 2012</td>
<td>Moratorium expires.</td>
</tr>
</tbody>
</table>