

## ORDINANCE NO. 580

**AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, RELATING TO LAND USE AND ZONING; ADOPTING A MORATORIUM AND INTERIM REGULATION CLARIFYING THE PROHIBITION AGAINST THE RETAIL SALE, GROWING, PRODUCTION AND PROCESSING OF MARIJUANA INTENDED FOR MEDICAL AND/OR RECREATIONAL USE IN ALL ZONING DISTRICTS OF WOODINVILLE; ESTABLISHING SIX MONTHS AS THE EFFECTIVE PERIOD; SETTING A PUBLIC HEARING FOR DECEMBER 3, 2013 IN ORDER TO TAKE PUBLIC TESTIMONY REGARDING THE MORATORIUM AND INTERIM REGULATION; REFERRING THE MATTER TO THE PLANNING COMMISSION FOR HEARING AND REVIEW; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.**

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**WHEREAS**, the City Council of the City of Woodinville has since the adoption of its initial land use regulations in 1997 required all land uses and development within the City to comply with all applicable Federal law; and

**WHEREAS**, all land uses and development involving the growing, production, processing, and sale of marijuana was in 1997 and continues to be through current date non compliant with Federal law; and

**WHEREAS**, the City of Woodinville adopted Ordinance 541 in 2012 after the effective date of E2SSB 5073 in Washington State authorizing "collective gardens" and qualifying patients the ability to produce, grow, process, transport and deliver marijuana for medical use, in order to make clear that the growing, production, processing and sale of marijuana, even for medical purposes, was non-compliant with the Woodinville Zoning Code due to the violation of Federal law and prohibited in all zoning districts of the City of Woodinville; and,

**WHEREAS**, Initiative 502 was approved by Washington voters in 2012 and the Washington State Liquor Control Board is in the process of the implementation of Initiative 502 through a rule making process creating a system for the production, processing and retailing of marijuana in the State of Washington; and

**WHEREAS**, the Woodinville City Council believes it in the public interest and the best interest of the City to remain fully compliant with Federal laws prohibiting the growing, production, processing, and retail/wholesale sale of marijuana, and to clarify that its land use regulations continue to prohibit within the City all growing, production, processing and sale of marijuana for any and all purposes notwithstanding E2SSB 5073 and Initiative 502; and

**WHEREAS**, the City Council also believes it in the public interest to provide the opportunity for public hearing and review by the City Planning Commission of the City's zoning and land use regulations with respect to recreational and medical marijuana due to the voter approval of initiative 502 and the new regulations from the Washington State Liquor Control Board concerning the retail sale of recreational marijuana; and

**WHEREAS**, unless a moratorium is imposed, persons may seek to take advantage of any ambiguity or uncertainty in the land use regulations of the City and establish or seek to establish retail sale outlets for recreational marijuana within the City of Woodinville while the

City Council refers the subject matter to the City Planning Commission for review and recommendation and the Council determines what changes should be made to Title 21 WMC; and

**WHEREAS**, the City Council may impose a moratorium on the acceptance of certain development applications for a period of up to six months as long as the City Council holds a public hearing on the proposed regulations in accordance with RCW 35A.63.220 and RCW 36.70A.390; and

**WHEREAS**, the City Council deems it to be in the public interest to establish a moratorium and interim regulations related to recreational marijuana until the City can consider all of the land use impacts of initiative 502 and its implementation by the state liquor control board;

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

Section 1. Findings. The recitals set forth above are hereby adopted as the Woodinville City Council's preliminary findings in support of the moratorium and interim regulations imposed by this ordinance. The Woodinville City Council may, in its discretion, adopt additional findings after conclusion of the public hearing referenced in Section 5 below.

Section 2. Moratorium With Interim Regulation Imposed. The City Council hereby imposes a six-month moratorium on the acceptance of any development permit applications for, any land use involving the retail sale, growing, production and processing of marijuana intended for recreational or medical use and the interim zoning regulations prohibiting the retail sale, growing, production and processing of marijuana in all zoning districts of the City as set forth in Sections 1, 2, and 3 of proposed Ordinance No. 581 attached hereto as Exhibit A. No building permit, occupancy permit, or other development approval for such purposes shall be issued while this moratorium is in effect.

Section 3. Duration of Moratorium. The moratorium and interim regulation set forth in Section 2 of this ordinance shall be in effect for a period of six months from the date this ordinance is effective 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 Woodinville City Council.

Section 4. Public Hearing. Pursuant to RCW 36.70A.390 and RCW 35A.63.220, the City Council shall hold a public hearing on this moratorium within sixty (60) days of its adoption. The Council shall hold this hearing on December 3, 2013, at 7:00 p.m. or as soon thereafter as the business of the City Council shall permit.

Section 5. Referral to Staff and Planning Commission. Proposed Ordinance No. 581 shall be referred to the Woodinville Planning Commission for review and recommendation for inclusion in the zoning ordinances of the City of Woodinville. The Planning Commission shall make recommendation to the City Council concerning any other amendments to Title 21 it deems appropriate concerning the sale, growth, production and processing of marijuana in the City of Woodinville.

Section 6. Transmittal to Department. Pursuant to RCW 36.70A.106, the City Clerk is directed to send a copy of this ordinance to the State Department of Commerce for its files within ten (10) days after adoption of this ordinance.

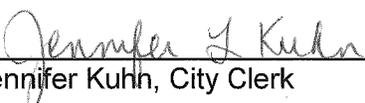
Section 7. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 8. Effective Date. This ordinance shall take effect five days after passage and publication of an approved summary thereof consisting of the title.

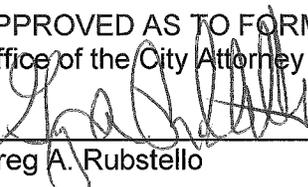
**ADOPTED BY THE CITY COUNCIL AND SIGNED IN AUTHENTICATION OF ITS PASSAGE  
THIS 12<sup>th</sup> DAY OF NOVEMBER 2013.**

  
\_\_\_\_\_  
Mayor Bernard Talmas

ATTEST/AUTHENTICATED:

  
\_\_\_\_\_  
Jennifer Kuhn, City Clerk

APPROVED AS TO FORM:  
Office of the City Attorney

  
\_\_\_\_\_  
Greg A. Rubstello

PASSED BY THE CITY COUNCIL: 11/12/2013  
PUBLISHED: 11/18/2013  
EFFECTIVE DATE: 11/25/2013  
ORDINANCE NO. 580

**Exhibit A**

**ORDINANCE NO. 581**

**AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, RELATING TO LAND USE AND ZONING AND CLARIFYING THE PROHIBITION AGAINST THE RETAIL SALE, GROWING, PRODUCTION AND PROCESSING OF MARIJUANA INTENDED FOR MEDICAL AND/OR RECREATIONAL USE IN ALL ZONING DISTRICTS OF WOODINVILLE; AMENDING SECTIONS 21.06.379, 21.02.040, AND 21.08.010 OF THE WOODINVILLE MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE; AND ALLOWING FOR SUMMARY PUBLICATION BY TITLE ONLY.**

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**WHEREAS**, the City Council of the City of Woodinville has since the adoption of its initial land use regulations in 1997 required all land uses and development within the City to comply with all applicable Federal law; and

**WHEREAS**, all land uses and development involving the growing, production, processing, and sale of marijuana was in 1997 and continues to be through current date non compliant with Federal law; and

**WHEREAS**, the City of Woodinville adopted Ordinance 541 in 2012 after the effective date of E2SSB 5073 in Washington State authorizing "collective gardens" and qualifying patients the ability to produce, grow, process, transport and deliver marijuana for medical use, in order to make clear that the growing, production, processing and sale of marijuana, even for medical purposes, was non-compliant with the Woodinville Zoning Code due to the violation of Federal law and prohibited in all zoning districts of the City of Woodinville; and,

**WHEREAS**, Initiative 502 was approved by Washington voters in 2012 and the Washington State Liquor Control Board is in the process of the implementation of Initiative 502 through a rule making process creating a system for the production, processing and retailing of marijuana in the State of Washington; and

**WHEREAS**, the Woodinville City Council after public hearing before the Planning Commission and considering their recommendation, believes it in the public interest and the best interest of the City to remain fully compliant with Federal laws prohibiting the growing, production, processing, and retail/wholesale sale of marijuana, and to again clarify that its land use regulations continue to prohibit within the City all growing, production, processing and sale of marijuana for any and all purposes notwithstanding E2SSB 5073 and Initiative 502,

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

**Section 1.** New Subsection 21.06.379 is hereby added to the Woodinville Municipal Code to read as follows (deletions shown by ~~strikeout~~, additions by underline):

**21.06.379 Marijuana.**

Marijuana: all parts of the plant Cannabis, whether growing or not; 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 includes marijuana-infused products, but does not include:

1. the mature stalks of the plant;
2. fiber produced from the mature stalks of the plant;
3. oil or cake made from the seeds of the plant;
4. any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom, fiber, oil, or cake; or
5. the sterilized seed of the plant which is incapable of germination.

**Section 2.** Section 21.02.040 of the Woodinville Municipal Code is hereby amended to read as follows (deletions shown by strikeout, additions by underline):

**21.02.040 Conformity with this title required.**

- (1) No use or structure shall be established, substituted, expanded, constructed, altered, moved, maintained, or otherwise changed except in conformance with this title.
- (2) Creation of or changes to lot lines shall conform with the use provisions, dimensional and other standards, and procedures of this title and WMC Title 20. Subdivisions.
- (3) All land uses and development authorized by this title shall comply with all other regulations and or requirements of this title as well as any other applicable local, State or Federal law. Where a difference exists between this title and other City regulations, the more restrictive requirements shall apply. Where a conflict exists between Federal law and State law, Federal law prevails.
  - (a) The growing, production, processing and sale of marijuana is prohibited in all zoning districts of the City of Woodinville whether it is grown, produced, processed or sold for medical or recreational use, and nothing in this Title should be construed differently.
- (4) Where more than one part of this title applies to the same aspect of a proposed use or development, the more restrictive requirement shall apply.

**Section 3.** Section 21.08.010 is hereby amended to read as follows (deletions shown by strikeout, additions by underline):

**21.08.010 Establishment of uses.**

The use of a property is defined by the activity for which the building or lot is intended, designed, arranged, occupied, or maintained. The use is considered permanently established when that use will or has been in continuous operation for a period exceeding 60 days. A use which will operate for less than 60 days is considered a temporary use, and subject to the requirements of Chapter 21.32 WMC. All applicable requirements of this code, or other

applicable State or Federal requirements, shall govern a use located in the City of Woodinville. By way of example, see subsection 21.02.040 clarifying that the growing, production, processing and sale of marijuana is prohibited in all zoning districts of the City of Woodinville whether it is grown, produced, processed or sold for medical or recreational use, and nothing in this Title should be construed differently.

**Section 4. Findings.** The recitals set forth above are hereby adopted as findings by the Woodinville City Council.

**Section 5. 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 or constitutionality of any other section, sentence, clause or phrase of this ordinance.

**Section 6. Effective Date.** This ordinance or a summary thereof consisting of the ordinance title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

**ADOPTED BY THE CITY COUNCIL AND SIGNED IN AUTHENTICATION OF ITS PASSAGE  
THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2014.**

\_\_\_\_\_  
Bernard W. Talmas, Mayor

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Jennifer Kuhn, City Clerk/CMC

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

\_\_\_\_\_  
Greg Rubstello, City Attorney

PASSED BY THE CITY COUNCIL:  
PUBLISHED:  
EFFECTIVE DATE:  
ORDINANCE NO. 581



STATE OF WASHINGTON

DEPARTMENT OF COMMERCE

1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000  
www.commerce.wa.gov

November 19, 2013

Jennifer Kuhn  
City Clerk  
City of Woodinville  
17301 - 133rd Avenue Northeast  
Woodinville, Washington 98072

Dear Ms. Kuhn:

Thank you for sending the Washington State Department of Commerce (Commerce) the following materials as required under RCW 36.70A.106. Please keep this letter as documentation that you have met this procedural requirement.

**City of Woodinville - Adopted ordinance relating to land use and zoning; adopting a moratorium and interim regulation clarifying the prohibition against the retail sale, growing, production and processing of marijuana intended for medical and/or recreational use in all zoning districts of Woodinville; establishing six months as the effective period; setting a public hearing for December 3, 2013 in order to take public testimony regarding the moratorium and interim regulation; referring the matter to the planning commission for hearing and review. These materials were received on November 19, 2013 and processed with the Material ID # 19768.**

We have forwarded a copy of this notice to other state agencies.

If this submitted material is an adopted amendment, then please keep this letter as documentation that you have met the procedural requirement under RCW 36.70A.106.

If you have submitted this material as a draft amendment, then final adoption may occur no earlier than sixty days following the date of receipt by Commerce. Please remember to submit the final adopted amendment to Commerce within ten days of adoption.

If you have any questions, please contact Growth Management Services at [reviewteam@commerce.wa.gov](mailto:reviewteam@commerce.wa.gov), or call Dave Andersen (509) 434-4491 or Paul Johnson (360) 725-3048.

Sincerely,

Review Team  
Growth Management Services