CITY OF REDMOND ORDINANCE NO. 2744

ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, RELATING TO ZONING AND BUSINESS LICENSING; TERMINATING INTERIM REGULATIONS FOR MARIJUANA-RELATED AND USES MEDICAL CANNABIS COLLECTIVE GARDENS: ADOPTING PERMANENT REGULATIONS FOR MARIJUANA-RELATED USES AND MEDICAL CANNABIS COLLECTIVE GARDENS AMENDING RZC 21.04.030- ALLOWED BY: AMENDING RZC 21.08.340 TO PROHIBIT MARIJUANA-RELATED USES AS HOME BUSINESSES: ADDING A NEW CHAPTER RZC 21.41 PROHIBITING MEDICAL CANNABIS COLLECTIVE GARDENS IN ALL DISTRICTS OF THE CITY ESTABLISHING RESTRICTIONS ON THE LOCATION OF STATE-LICENSED MARIJUANA-RELATED FACILITIES USES; AMENDING RZC 21.78 TO ADD NEW MARIJUANA-RELATED DEFINITIONS AND **AMEND** AMENDING **RMC** 5.04.140 REGARDING OTHERS; BUSINESS LICENSES FOR MARIJUANA BUSINESSES; PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, in 2012 Washington voters approved Initiative 502 which authorizes certain production, processing and retailing of marijuana, codified in relevant part at RCW 69.50.325, et seq., and directed the State Liquor Control Board to develop rules and regulations to:

- Determine the number of retailers of marijuana by county and city;
- Develop licensing and other regulatory measures;
- 3. Issue licenses to producers, processors, and retailers at locations which comply with the Initiative's

distancing requirements prohibiting such uses within one thousand feet of schools and other designated public facilities; and

4. Establish a process for municipalities to comment prior to the issuance of such licenses; and

WHEREAS, the Washington State Liquor Control Board adopted such regulations promulgated at Chapter 314-55 of the Washington Administrative Code effective November 21, 2013; and

WHEREAS. authorized RCW 35A.63.220 as by and RCW 36.70A.390, the City Council approved Ordinance No. 2682 on February 9, 2013, adopting interim regulations prohibiting collective gardens in all zoning districts of the city and prohibiting the location of other marijuana-related facilities and uses until the state adopted licensing regulations and the city adopted permanent zoning regulations for a period of six months, as later extended under Ordinance Nos. 2702 and 2728; and

WHEREAS, while the production, processing, and retailing of marijuana remains in violation of the federal Controlled Substances Act, the City Council wishes to acknowledge the will of Redmond voters and the authority exercised by the State of Washington and the Washington State Liquor Control Board to license such facilities; and

WHEREAS, Initiative Measure No. 692, approved by the voters of Washington State on November 30, 1998, and codified as chapter 69.51A RCW, created an affirmative defense for "qualifying patients" to the charge of possession of marijuana; and

WHEREAS, in April 2011, the Washington State Legislature passed a bill (E2SSB 5073) to provide qualifying patients with a new means of access to medical marijuana, authorizing "collective gardens" which would allow qualifying patients the ability to produce, grow, process, transport, and deliver marijuana for medical use, and that provision was approved by Governor Gregoire, effective on July 22, 2011, and codified at RCW 69.51A.085; and

WHEREAS, on March 31, 2014, the Court of Appeals, Division I, in Cannabis Action Coalition v. City of Kent, held that despite the authorizing language in RCW 69.51A.085, collective gardens are illegal uses; and

WHEREAS, the Planning Commission conducted study sessions on February 12, 2014, and March 12, 2014; and

WHEREAS, the Planning Commission conducted a public hearing on February 26, 2014, and forwarded their recommendation to the City Council; and

WHEREAS, the City Council conducted study sessions on April 22, 2014, and May 13, 2014; and

WHEREAS, the City Council conducted a public hearing on recreational and medical marijuana related uses on June 17, 2014; and

WHEREAS, notice was given on January 30, 2014, to the Office of Community Development at the Washington State Department of Commerce in conformance with RCW 36.70A.106; and

WHEREAS, the City Council deems it to be in the public interest to codify permanent regulations to protect the health, safety and welfare of citizens of the City; and

WHEREAS, nothing in this ordinance is intended nor shall be construed to authorize or approve of any violation of federal or state law.

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

Section 1. Repeal of Ordinances. The interim zoning regulations adopted under Ordinance No. 2682 as extended by Ordinance No. 2702 and Ordinance No. 2728 are hereby repealed in their entirety.

Section 2. Amendment of Section. RMC 5.04.140, Criteria for denial, suspension, or revocation, is hereby amended as follows:

5.04.140 Criteria for denial, suspension or revocation of license.

The finance director may deny issuance of a business license to any applicant or suspend or revoke any and all business licenses of any holder when such person, or any other person with any interest in the application or license:

- (1) Knowingly violates or knowingly causes, aids, abets, or conspires with another to cause any person to violate any state, federal, or city law which may affect or relate to the applicant or license holder's business, except for federal statutes, rules and regulations relating to marijuana that are in conflict with state law, as long as the applicant or person with interest in the application has a current state license to operate a marijuana facility;
- (2) Has obtained a license or permit by fraud, misrepresentation, concealment, or through inadvertence or mistake;
- (3) Is or has been convicted of, forfeits bond upon, or pleads guilty to any felony offenses directly related to the operation of the applicant's or license holder's business <u>unless the offense</u> relates to marijuana and the applicant has a current state license to operate a marijuana facility;

Section 3. Section 21.04.030 Allowed Uses Chart - Amended.

Section 21.04.030 of the Redmond Zoning Code is hereby amended as follows:

A. <u>Table 21.04.030A</u>. <u>Residential Zones</u>. Categories for marijuana retail sales, marijuana processing and marijuana production/collective gardens are added to Table 21.04.030A of the Comprehensive Allowed Uses Chart as follows:

Table 21.04.030A Comprehensive Allowed Uses Chart: Residential Zones									
Online Users: Click on District Abbreviation to View Map>		RA5	R1	R3	R4, R5	R6	R8	RIN	R12, R18, R20, R30
General Sales or Service									
Marijuana retail sales									
Manufacturing and Wholesale Trade									
Marijuana processing									
Agriculture									
Marijuana production	<u>P</u>								

B. <u>Table 21.04.030B</u>. <u>Nonresidential Zones</u>. Categories for marijuana retail sales, marijuana processing, and marijuana

production/collective gardens are added to Table 21.04.030B of the Comprehensive Allowed Uses Chart as follows:

Table 21.04.030B Comprehensive Allowed Uses Chart: Nonresidential Zones									
Online Users: Click on District Abbreviation to View Map>	NC- 1		GC	ВР	МР		GDD	BCDD1	BCDD2
General Sales or Service			Action						
Marijuana retail sales			<u>P</u>				<u>P</u>		
Manufacturing and Wholesale Trade									
Marijuana <u>processing</u>				<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		
Agriculture							77		
Marijuana production								<u>P</u>	

C. <u>Table 21.04.030C</u>. <u>Mixed Use Zones</u>. Categories for marijuana retail sales, marijuana processing, and marijuana production/collective gardens are added to Table 21.04.030C of the Comprehensive Allowed Uses Chart as follows:

Table 21.04.030C Comprehensive Allowed Uses Chart: Mixed Use Zones										
Online Users: Click on District Abbreviation to View Map >		RVT, CTR, EH		OV4	OV5	ОВАТ				
General Sales or Service										
Marijuana retail sales	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>					
Manufacturing and Wholesale Trade										
Marijuana <u>processing</u>			<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>				
Agriculture										
Marijuana production										

Section 4. Section 21.08.340 Home Business. Section 21.08.340 of the Redmond Zoning Code is hereby amended to add a new section (C)(14), to read as follows:

14. Marijuana-related Home Businesses. No marijuana production, marijuana processing or marijuana retail sales shall be allowed as a home business.

Section 5. Chapter 21.41 Marijuana-Related Uses. A new Chapter 21.41--entitled Marijuana-Related Uses--is hereby adopted to read as follows:

RZC 21.41 MARIJUANA-RELATED USES

21.41.010 Relationship to federal law. The production, processing and retailing of marijuana is and remains illegal under federal law. Nothing in this chapter or as provided elsewhere in the RZC or RMC authorizes or permits any person or entity to circumvent or violate federal law.

21.41.020 Collective gardens. On March 31, 2014, the Court of Appeals, Division I, in Cannabis Action Coalition v. City of Kent, held that despite the authorizing language in RCW 69.51A.085, collective gardens are illegal uses. Consistent with state law, collective gardens are not allowed within the City.

21.41.030 State license. No marijuana processor, marijuana producer, or marijuana retailer shall locate in the city without a valid license issued by the Washington State Liquor Control Board, and must at all times conform with state law and city regulations. In the event any city regulation conflicts with state law or state regulations, the more restrictive provision shall prevail.

21.41.040 Location; buffers.

A. Marijuana production, marijuana processing and marijuana retail uses are allowed uses within the

City where in compliance with state law and regulation and this chapter.

- B. No marijuana producer, marijuana processor, or marijuana retailer shall locate within 1000 feet, measured in the manner set forth in WAC 314-55-050(10), from any of the existing uses as defined in WAC 314-55-010 as of the date of adoption of this ordinance:
 - 1. Elementary or secondary school;
 - 2. Playground;
 - 3. Recreation center or facility;
 - 4. Public park;
 - 5. Public transit center;
 - 6. Library; or
 - 7. Game arcade.

21.41.050 Structural requirements.

All marijuana processors, marijuana producers and marijuana retailers must operate in a permanent structure designed to comply with the City Building Code.

Section 6. Chapter 21.78 - Definitions - Amended. The following definitions in chapter 21.78 of the Redmond Zoning Code are amended as follows:

Crop Production. The growing and harvesting of crops,
such as grains, vegetables, fruits, trees, flowers,
and other ornamental horticulture. Crop Production
does not include marijuana production.

General Sales or Services. An establishment engaging in the retail sale, rental, or lease of goods or the provision of services, including but not limited to automobile sales or service; heavy consumer goods sale or service; durable consumer goods or service; sale or service of other consumer goods, grocery, food and beverage sales; health and personal care services; finance and insurance services; real estate services; professional services; and restaurant and food services. General sales or services does not include hotels, motels, and other accommodation services; mail order direct sales establishments; membership or wholesale/retail warehouses; [AND] packing, crating, and convention and trade show services; and marijuana retail sales.

Home Business. A business activity which results in a product or service and is conducted in whole or in part on a residential premises and is clearly subordinate to use of the premises as a residence.

Home Business does not include any business activity relating to marijuana.

Manufacturing and Wholesale Trade. An establishment that engages in the transformation of raw materials into finished products, in the sale or distribution of those products to persons, firms, or corporations for resale, in the storage of materials or products in a warehouse or similar structure, or in the assembly or fabrication of goods. A manufacturing or wholesale trade establishment does not engage in the retail sale of products to the end consumer. Manufacturing and wholesale trade does not include any activity relating to marijuana.

Section 7. Chapter 21.78 - Definitions - New. Section 21.78 of the Redmond Zoning Code is amended to add the following definitions:

Collective Garden. A facility, use, or location at which qualifying patients grow, produce, process, transport, or deliver marijuana for medical use, as described in RCW 69.51A.085.

Marijuana. All parts of the plant cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; 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 does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

Marijuana Concentrates. Products consisting wholly or in part of the resin extracted from any part of the plant Cannabis and having a THC concentration greater than sixty percent.

Marijuana-Infused Products. Products that contain marijuana or marijuana extracts and are intended for human use, and have a THC concentration greater than 0.3 percent and no greater than sixty percent. The term "marijuana-infused products" does not include either usable marijuana or marijuana concentrates.

Marijuana Processing. Processing of marijuana by a marijuana processor into useable marijuana, marijuana-infused products, and marijuana concentrates, including the packaging and labeling of useable marijuana, marijuana-infused products and marijuana

concentrates for sale in retail outlets, and sale of useable marijuana, marijuana-infused products and marijuana concentrates at wholesale to marijuana retailers.

Marijuana Processor. A person licensed by the state liquor control board to process marijuana into useable marijuana, marijuana-infused products, and marijuana concentrates, package and label useable marijuana, marijuana-infused products and marijuana concentrates for retail outlets, and sell useable sale in marijuana, marijuana-infused products and marijuana concentrates at wholesale to marijuana retailers.

Marijuana Producer. A person licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

Marijuana Production. Production of marijuana by a marijuana producer to sell at wholesale to marijuana processors and other marijuana producers.

Marijuana Retail Sales. The sale of usable marijuana, marijuana-infused products and marijuana concentrates by a marijuana retailer in a retail outlet.

Marijuana Retailer. A person licensed by the state liquor control board to sell useable marijuana,

marijuana-infused products and marijuana concentrates in a retail outlet.

Retail Outlet. A location licensed by the state liquor control board for the retail sale of useable marijuana, marijuana-infused products and marijuana concentrates.

THC Concentration. The percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant cannabis, or per volume or weight of marijuana product.

Useable Marijuana. Dried marijuana flowers. The term "useable marijuana" does not include either marijuana-infused products or marijuana concentrates.

Section 8. Transmittal to Department of Commerce.

Pursuant to RCW 36.70A.106, this ordinance shall be transmitted to the Washington State Department of Commerce, as required by law.

Section 9. Council Review. The City Council will review this ordinance 18 to 24 months after adoption to review the land use and other impacts of marijuana-related uses along with any changes in state regulation. Nothing in this section prevents the City Council from adopting amendments prior to such review.

Section 10. 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 of any other section, sentence, clause or phrase of this ordinance.

Section 11. Effective Date. This ordinance shall take effect five days after its publication, or publication of a summary thereof, in the City's official newspaper, or as otherwise provided by law.

ADOPTED by the Redmond City Council this 17th day of June, 2014.

CITY OF REDMOND

JOHN MARCHIONE, MAYOR

ATTEST:

MICHELLE M. HART, MMC, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

JAMES HANEY, CITY ATTORNEY

FILED WITH THE CITY CLERK: June 3, 2014
PASSED BY THE CITY COUNCIL: June 17, 2014
SIGNED BY THE MAYOR: June 20, 2014
PUBLISHED: June 23, 2014
EFFECTIVE DATE: June 28, 2014
ORDINANCE NO. 2744

YES: Allen, Carson, Flynn, Margeson, Myers, Shutz, Stilin