ORDINANCE NO. 4206

AN ORDINANCE of the City Council of the City of Kent, Washington, adopting a six-month moratorium within the city of Kent prohibiting the establishment, location, operation, licensing, maintenance or continuation of medical marijuana patient cooperatives, claiming authorization under Chapter 69.50 RCW or any other law of the state of Washington, and setting a date for a public hearing on the moratorium.

RECITALS AND PRELIMINARY FINDINGS OF FACT

A. Second Substitute Senate Bill No. 5052, known as the "Cannabis Patient Protection Act," was signed into law by Governor Inslee on April 24, 2015. This Act allows qualifying patients and/or designated providers who hold valid recognition cards to form a "cooperative" in which marijuana can be collectively grown for personal, medical use, beginning July 1, 2016. The Act also repeals the existing category of "collective gardens," as defined in RCW 69.51A.085, effective as of July 1, 2016.

B. Medical marijuana patient cooperatives are limited to four or fewer members; must be registered with the state Liquor and Cannabis Board; and must be located within the domicile of one of the members of the cooperative.

C. Second Engrossed Second Substitute House Bill 2136, signed by Governor Inslee on June 30, 2015, further clarified that the Liquor and
Cannabis Board must deny the registration of a proposed patient cooperative if the location is prohibited by local zoning ordinance.

D. Kent’s zoning code does not currently address this new category of patient cooperatives, requiring an amendment to the city code.

E. While collective marijuana growing has never been authorized in Kent, the Kent Police Department ("KPD") has investigated numerous illegal marijuana grow operations in housing units in the City. KPD has noted that residential “grow houses” often pose multiple environmental concerns, including, but not limited to: excessive power consumption; increased mold and mildew; pervasive odors; and structural damage.

F. Furthermore, these impacts are magnified by the fact that these grow houses are often rental units that are rendered uninhabitable after being used for the indoor growing and cultivation of marijuana.

G. The City Council recognizes that approved medical uses of marijuana may provide relief to patients suffering from debilitating or terminal conditions, but because of the potential secondary impacts, the establishment of facilities for the collective growth, production, and processing of medical marijuana in residential units may not be appropriate in any zoning district within the City.

H. The City Council further understands that while the medical benefits of marijuana have been recognized by the state legislature, marijuana remains a Schedule I controlled substance under the federal Controlled Substances Act (CSA), and possession and use of marijuana is still a violation of federal law.

I. The City Council has determined that the passage of a six-month moratorium on the establishment, operation or maintenance of a
medical marijuana patient cooperative will serve the public health, safety and welfare.

J. The City Council has also determined that during the six-month moratorium, staff shall develop, process, and present for consideration permanent zoning code amendments relating to marijuana patient cooperatives as defined by RCW 69.51A.250.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

ORDINANCE

SECTION 1. - Preliminary Findings of Fact. The recitals and findings of fact set forth above are adopted as the city council’s preliminary findings in support of the moratorium imposed by this ordinance. The city council may, in its discretion, adopt additional findings at the conclusion of the public hearing referenced in Section 5 below.

SECTION 2. - Moratorium Imposed. Pursuant to the provisions of Article 11, Section 11 of the Washington State Constitution, and RCW 35A.63.220 and RCW 36.70A.390, a moratorium is hereby enacted prohibiting within the city of Kent the establishment, location, operation, maintenance, continuation, permitting or licensing of any medical marijuana patient cooperative, as defined in RCW 69.51A.250. No building permit, occupancy permit, or other development permit or approval shall be issued for any of the purposes or activities listed above while this moratorium is in effect. Any land use permits, or other permits or authorizations 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 or effect.
SECTION 3.  - **No Nonconforming Uses.** No use that constitutes or purports to be a use prohibited in Section 2 of this ordinance, that was engaged in prior to the enactment of this ordinance, shall be deemed to have been a legal established use under the provisions of the Kent City Code and that use shall not be entitled to claim legal nonconforming status.

SECTION 4.  - **Effective Period for Moratorium.** This moratorium shall take effect beginning five days from the date of its publication, and shall be in effect for a period of six months thereafter, and shall automatically expire at the conclusion of that six month period unless the same is extended as provided in RCW 35A.63.220 or RCW 36.70A.390, or unless terminated sooner by the city council.

SECTION 5.  - **Public Hearing.** Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the city council will hold a public hearing regarding this moratorium at the city council’s regular meeting, at 7:00 p.m. in Council Chambers, Kent City Hall, on Tuesday, August 16, 2016, or as soon thereafter as the business of the city council shall permit.

SECTION 6.  - **Referral to Staff.** The economic and community development director is hereby authorized and directed to develop and recommend appropriate land use regulations relating to marijuana patient cooperatives as defined by RCW 69.51A.250.

SECTION 7.  - **Severability.** If any one or more section, subsection, or sentence of this ordinance is held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

SECTION 8.  - **Corrections by City Clerk or Code Reviser.** Upon approval of the city attorney, the city clerk and the code reviser are
authorized to make necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

**SECTION 9. - Effective Date.** This ordinance shall take effect and be in force five days from and after its publication, as provided by law.


Suzette Cooke, Mayor

ATTEST:

Sue Hanson
SUE HANSON, INTERIM CITY CLERK

APPROVED AS TO FORM:

Arthur "Pat" Fitzpatrick, Acting City Attorney

PASSED: 21 day of June, 2016.
APPROVED: 21 day of June, 2016.
PUBLISHED: 24 day of June, 2016.

I hereby certify that this is a true copy of Ordinance No. 4206 passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

Sue Hanson (SEAL)
SUE HANSON, INTERIM CITY CLERK

Six-Month Moratorium
Medical Marijuana Patient Cooperatives