

Next Ord: 1760-12  
Next Res: 873-12

VISION STATEMENT

SEDRO-WOOLLEY IS A FRIENDLY CITY THAT IS CHARACTERIZED BY CITY GOVERNMENT AND CITIZENS WORKING TOGETHER TO ACHIEVE A PROSPEROUS, VIBRANT AND SAFE COMMUNITY

MISSION STATEMENT

TO PROVIDE SERVICES AND OPPORTUNITIES WHICH CREATE A COMMUNITY WHERE PEOPLE CHOOSE TO LIVE, WORK AND PLAY

**CITY COUNCIL WORKSESSION**

**AGENDA**

**December 5, 2012**

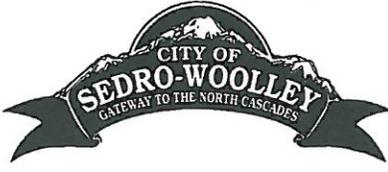
**7:00 PM**

**Sedro-Woolley Municipal Building**

**Public Safety Training Room**

**325 Metcalf Street**

- A. Zoning Rules for Medical Cannabis Collective Gardens Ordinance  
*(Staff Contact – Eron Berg & John Coleman)*
  
- B. Deferred Impact Fee Ordinance  
*(Staff Contact – John Coleman)*



**CITY COUNCIL  
WORKSESSION**

**DEC 05 2012**

**AGENDA ITEM**     A    

**Building and Planning Departments**  
Sedro-Woolley Municipal Building  
325 Metcalf Street  
Sedro-Woolley, WA 98284  
Phone (360) 855-0771  
Fax (360) 855-0733

---

**MEMO:**

**To:** City Council  
Mayor Anderson

**From:** John Coleman, AICP  
Planning Director

**Date:** December 5, 2012 Worksession

**Subject:** Zoning Rules for Medical Cannabis Collective Gardens – *3<sup>rd</sup> Read*

---

**ISSUE**

At its October 24 and November 28, 2012 meetings, the City Council discussed a proposed ordinance that would amend the zoning code to prohibit medical cannabis collective gardens in all zoning designations within the city. The Council requested that staff present alternative options for a collective gardens ordinance.

Attachment 1 is a revised version of the previously proposed ordinance that excludes the Industrial zone from the list of zones in which collective gardens would be prohibited. As requested, the ordinance is also revised to include a provision that collective gardens may not be located within 1,000 feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older. This language is taken directly from Initiative 502.

Attachment 2 is the City of Anacortes' collective gardens ordinance. Anacortes' ordinance differs greatly from the proposed ordinance. Anacortes' ordinance explicitly allows collective gardens; it creates detailed administrative procedures for permitting the location of collective gardens and licensing the operation of collective gardens. Sedro-Woolley's proposed ordinance was drafted so as not to explicitly allow uses related to marijuana, thereby avoiding any liability under federal laws. Instead, the proposed ordinance defines collective gardens and specifies where they may not be located.

**ATTACHMENTS**

Attachment 1 – Proposed Ordinance regarding medical cannabis collective gardens with revisions to set distance limits to schools and remove the Industrial zone from the list of zones where collective gardens are prohibited

Attachment 2 – City of Anacortes' ordinance regarding medical cannabis collective gardens

**RECOMMENDATION**

Continued discussion of an ordinance to address medical cannabis collective gardens.

# **Attachment 1**

To Council Memo on Zoning Rules for Medical Cannabis Collective Gardens – 3<sup>rd</sup> Read

**Proposed Ordinance regarding Medical Cannabis Collective Gardens  
(Revised)**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING TITLE 17 OF THE SEDRO-WOOLLEY MUNICIPAL CODE TO DEFINE MEDICAL CANNABIS COLLECTIVE GARDENS AND SPECIFY ZONING DISTRICTS IN WHICH THEY ARE PROHIBITED.**

**WHEREAS**, Initiative Measure No. 692, approved November 3, 1998, created an affirmative defense for “qualifying patients” to the charge of possession of marijuana; and

**WHEREAS**, the initiative and current Chapter 69.51A RCW are clear that nothing in its provisions are to be “construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of marijuana for non-medical purposes;” and

**WHEREAS**, the Washington State Department of Health stated that it is “not legal to buy or sell” medical marijuana and further stated that “the law [chapter 69.51A RCW] does not allow dispensaries,” leaving enforcement to local officials; and

**WHEREAS**, the Washington State Legislature passed Engrossed Second Substitute Senate Bill 5073 (ESSB 5073) clarifying and/or amending the legality of medical marijuana dispensaries and collective or co-operative grow operations under state law. Governor Gregoire exercised her partial veto power, vetoing portions of the bill, but the remaining portions of the bill were signed into law. The remaining un-vetoed portions provide some protection for qualifying patients and their designated providers to grow cannabis for a patient’s use or to participate in collective gardens; and

**WHEREAS**, Chapter 69.51A RCW, as amended by E2SSB 5073, recognizes the authority and ability of municipalities to regulate medical marijuana within their jurisdictions and to adopt comprehensive land use regulations and licensing regulations concerning the establishment and operation of medical cannabis uses and facilities within such jurisdictions; and

**WHEREAS**, the U.S. Congress passed the Comprehensive Drug Abuse Prevention and Control Act of 1970, Pub.L. No. 91-513, 84 Stat. 1236, to create a comprehensive drug enforcement regime it called the Controlled Substances Act, 21 U.S.C. § 801-971. Under the Controlled Substances Act (also “CSA”), Congress established five “schedules” of controlled substances; and

**WHEREAS**, cannabis is currently listed as a “Schedule I” controlled substance under the CSA, 21 U.S.C. § 812(c), Schedule I(c)(10).

**WHEREAS**, under the Controlled Substances Act, it is unlawful to knowingly or intentionally “manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance,” except as otherwise provided in the statute. 21 U.S.C. § 841(a)(1). Possession of a controlled substance, except as authorized under the Controlled Substances Act, is also unlawful; and

**WHEREAS**, Governor Gregoire has sought guidance with the U.S. Department of Justice regarding the proposed state legislation allowing medical marijuana dispensaries and cultivating and how any conflicts with federal law would be resolved; and

**WHEREAS**, officials of the U.S. Department of Justice have indicated that “state employees who conducted activities mandated by the Washington State legislative proposals [ESSB 5073] would not be immune from liability under the CSA.” Local jurisdictions that enact rules to enable collective gardens are subject to potential prosecutions or civil penalties against dispensary owners and growers; and

**WHEREAS**, the City Council finds that the growing, production, processing, transportation, and delivery of cannabis, no matter how designated by dispensaries, is currently prohibited by state and federal law; and

**WHEREAS**, the City's current zoning and business licensing regulations do not address medical marijuana dispensaries, related facilities or cultivation in a comprehensive fashion and may allow such establishments to be located in areas where the impacts associated with such facilities may be detrimental to the community; and

**WHEREAS**, it is uncertain how the provisions to protect medical cannabis and collective gardens under ESSB 5073 shall be reconciled with federal law that prohibits the possession, production, distribution or sale of cannabis for any reason; and

**WHEREAS**, the City Council finds that the secondary impacts associated with marijuana dispensaries and cultivation, include but are not limited to the invasion of the business, burglary and robbery associated with the cash and drugs maintained on the site; and

**WHEREAS**, the Sedro-Woolley Planning Commission held two public hearings and studied the potential effects of ESSB 5073 on the City of Sedro-Woolley. The Planning Commission voted 4-0 with one abstention, to recommend amendments to Title 17 – Zoning – of the Sedro-Woolley Municipal Code to define collective gardens and to prohibit collective gardens in all zoning districts; and

**WHEREAS**, the City Council adopts the Planning Commission Findings of Fact, Conclusions and Recommendation; and

**WHEREAS**, the City Council has concluded that it is in the best interest of the public health, safety and welfare to adopt this ordinance; and

**NOW, THEREFORE**, THE CITY COUNCIL OF THE CITY OF SEDRO-WOOLLEY, WASHINGTON DOES ORDAIN AS FOLLOWS:

**Section One.** SWMC 17.04.030 is amended to include a new definition for “collective gardens”:

“Collective garden” means the growing, production, processing, transportation, and delivery of cannabis, by qualifying patients, for medical use, as set forth in Chapter 69.51A RCW, and subject to the following conditions:

1. No more than ten (10) qualifying patients may participate in a single collective garden at any time;
2. A collective garden may contain no more than fifteen (15) plants per patient up to a total of forty-five (45) plants;
3. A collective garden may contain no more than twenty-four (24) ounces of useable cannabis per patient up to a total of seventy-two (72) ounces of useable cannabis;
4. A copy of each qualifying patient's valid documentation, including a copy of the patient's proof of identity, must be available at all times on the premises of the collective garden;
5. No useable cannabis from the collective garden is delivered to anyone other than one (1) of the qualifying patients participating in the collective garden;
6. A collective garden may contain separate areas for growing, processing, and delivering to its qualified patients; provided, that these separate areas must be physically part of the same premises, and located on the same parcel or lot. A location utilized solely for the purpose of distributing cannabis shall not be considered a collective garden;
7. No more than one (1) collective garden may be established on a single tax parcel and;
8. A collective garden may not be located within 1,000 feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

**Section Two.** A new Chapter 17.90 is included in Tile 17 SWMC and reads as follows:

**Chapter 17.90**  
**Collective Gardens**

17.90.010 Intent

The purpose of this chapter is to specify prohibited zones for collective gardens as defined in Chapter 17.04 SWMC.

17.90.020 Locations

Collective gardens, as defined in 17.04.030 SWMC are prohibited in the following zoning districts:

- A. All residential districts, including R-5, R-7, and R-15.
- B. Public zone.
- C. Open Space zone.
- D. All commercial districts, including: Mixed Commercial, Central Business District and the Transitional Mixed Commercial Overlay and the Urban Village Mixed Use Overlay.

**Section Three** This ordinance shall be effective five (5) days after passage and publication as provided by law.

**Section Four.** The moratorium enacted under Ordinance 1747-12 upon the filing of applications for building permits or any other development permits, or license or the establishment for any existing building or land use activity involving medical marijuana shall be void upon effectiveness of this ordinance.

**Section Five.** 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.

**PASSED** by majority vote of the members of the Sedro-Woolley City Council this \_\_\_\_\_ day of November, 2012, and signed in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

By \_\_\_\_\_  
MIKE ANDERSON, Mayor

Attest: \_\_\_\_\_  
PATSY NELSON, Finance Director

Approved as to form:

\_\_\_\_\_  
ERON BERG, City Attorney

Published:

\_\_\_\_\_

# **Attachment 2**

To Council Memo on Zoning Rules for Medical Cannabis Collective Gardens – 3<sup>rd</sup> Read

**Anacortes Ord. No. 2888 regarding Medical Cannabis Collective Gardens**

**ORDINANCE NO. 2888**

**AN ORDINANCE OF THE CITY OF ANACORTES, WASHINGTON, REGULATING MEDICAL CANNABIS COLLECTIVE GARDENS; ADDING NEW DEFINITIONS TO CHAPTER 17.06 AND RENUMBERING; ADDING A NEW SECTION 17.64.050 PROVIDING FOR THE REGULATION OF COLLECTIVE GARDENS, REQUIRING SEPARATION AND SECURITY; AMENDING SECTION 17.19.020 AND 17.16.020 TO RESTRICT THE LOCATION OF COLLECTIVE GARDENS WITHIN THE LIGHT MANUFACTURING (LM 1) USE ZONE AND INDUSTRIAL (I) USE ZONE; ADDING A NEW CHAPTER 5.50 TO BE ENTITLED "COLLECTIVE GARDEN SAFETY LICENSES" AND REGULATING THE LOCATION AND OTHER ATTRIBUTES OF COLLECTIVE GARDENS; REPEALING THE MORATORIUM ESTABLISHED BY ORDINANCE 2861 AND ORDINANCE 2873; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, On April 29, 2011, the Governor signed ESSB 5073, subject to vetos of several sections of the bill, "the Act"; and

**WHEREAS**, the Act became effective on July 22, 2011 and allowed certain qualified patients the ability to form collective gardens under certain terms for the purpose of producing, processing, transporting, and delivering cannabis for medical use subject to certain conditions; and

**WHEREAS**, under the Act, cities may adopt and enforce zoning requirements and health and safety requirements pertaining to the production, processing, or dispensing of cannabis or cannabis products within their jurisdiction; and

**WHEREAS**, on September 6, 2011, the Anacortes City Council enacted a moratorium on location of collective gardens pending review by the Planning Commission and City Council; and

**WHEREAS**, the Anacortes City Council held a public hearing on March 12, 2012, and following the public hearing continued the moratorium on collective gardens and established a termination date for the moratorium; and

**WHEREAS**, the Planning Commission held a public hearing on May 9, 2012 and has forwarded its recommendations to the City Council; and

**WHEREAS**, notice of the possible adoption of these changes has been provided to the State pursuant to RCW 36.70A.106; and

**WHEREAS**, the City Council desires to regulate collective gardens as provided herein,

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ANACORTES, WASHINGTON, DOES HEREBY ORDAIN THAT:**

**Section 1. Definitions:** Chapter 17.06 of the AMC is hereby amended to add the following definitions:

**Section 17.06.144 Cannabis.**

Cannabis means 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. For the purpose of this chapter, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds 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. The term "cannabis" includes cannabis products and useable cannabis.

**Section 17.06.145 Cannabis Products.**

Cannabis products means products that contain cannabis or cannabis extracts, have a measurable THC concentration greater than three tenths of one percent, and are intended for human consumption or application, including, but not limited to, edible products, tinctures, and lotions. The term "cannabis products" does not include useable cannabis. The definition of "cannabis products" as a measurement of THC concentration only applies to the provisions of this chapter and shall not be considered applicable to any criminal laws related to marijuana or cannabis.

Section 17.06.144 Cargo Container is renumbered as 17.06.146

**Section 17.06.176 Collective Garden. (Medical Marijuana)**

Collective garden means the growing, production, processing, and/or delivery of cannabis for medical use by up to ten collective members as set forth in Chapter 69.51A RCW and subject to the limitations therein and in this ordinance. Each collective garden shall have no more than forty five (45) plants and twenty four (24) ounces of usable cannabis per patient, up to a maximum of seventy two (72) ounces of usable cannabis on site. As used herein any constituent part of a collective garden shall be considered as a collective garden.

---

**Section 17.06.177 Collective Member.**

Collective member means a qualifying patient with membership in a single collective garden.

Section 17.06.177 Commercial Parking is renumbered as 17.06.178

**Section 17.06.383 Health Care Professional.**

For the purposes of chapter 69.51A RCW, means a physician licensed under chapter 18.71 RCW, a physician assistant licensed under chapter 18.71A RCW, an osteopathic physician licensed under chapter 18.57 RCW, an osteopathic physicians assistant licensed under chapter 18.57A RCW, a naturopath licensed under chapter 18.36A RCW, or a advanced registered nurse practitioner licensed under chapter 18.79 RCW.

Section 17.06.383 Heavy Manufacturing is renumbered as 17.06.384

Section 17.06.498 Medical Marijuana Collective Garden.  
See Collective garden.

Section 17.06.521 Marijuana  
Marijuana means all parts of the plant Cannabis, whether growing or not. See also Cannabis.

Section 17.06.714 Qualifying Patient  
Qualifying patient means a person who:

- A. Is a patient of a health care professional; and
- B. Has been diagnosed by that health care professional as having a terminal or debilitating medical condition; and
- C. Is a resident of the state of Washington at the time of such diagnosis; and
- D. Has been advised by that health care professional about the risks and benefits of the medical use of marijuana; and
- E. Has been advised by that health care professional that they may benefit from the medical use of marijuana.
- F. Possesses "valid documentation" of meeting the above criteria as defined in Chapter 69.51A RCW.

The term "qualifying patient" does not include a person who is actively being supervised for a criminal conviction by a corrections agency or department that has determined that the terms of this chapter are inconsistent with and contrary to his or her supervision and all related processes and procedures related to that supervision.

**Section 2.** Permitted Use. AMC Section 17.19.020 Permitted Uses is amended to add the following.

J. Medical Marijuana Collective Gardens.

**Section 3.** Permitted uses. AMC Section 17.16.020 Permitted uses is amended to read as follows.

~~Any industrial, research and development, office, repair, warehousing, processing, and shipping terminal uses, commercial parking, private parking, and public parking, and Medical Marijuana Collective Gardens provided that such uses are of such a nature that they do not inflict upon neighboring districts smoke, dirt, noise, vibrations, odor, glare, or other nuisances or hazards detrimental to the health, welfare, and safety of persons occupying or visiting the district or adjacent districts.~~

**Section 4.** A new section 17.64.050 is hereby added to the AMC to read as follows:

17.64.050 Collective Gardens (Medical Marijuana)

A. Purpose: The purpose of this section is to minimize the impacts of collective gardens on surrounding properties and ensure public safety.

B. Membership: Collective Gardens shall not exceed ten (10) members, and each member shall be a qualifying patient. No person may act as a member unless valid documentation has been obtained by the holder of the Collective Garden Safety License.

C. General Requirements:

1. A collective garden shall be entirely within a permanent enclosed structure with a roof. The structure shall comply with the City of Anacortes building codes and any other applicable codes.
2. No horticulture production, processing or delivery of cannabis shall be visible to the public.
3. A collective garden shall obtain a valid city collective garden safety license.
4. No person shall reprocess cannabis into any other or more concentrated form nor shall any person other than a member remove cannabis from the site or sell, trade or distribute cannabis removed from the site in violation of state or federal law.
5. The City shall have the authority to inspect the site for compliance with all applicable permits at any time during regular business hours.
6. Accessory retail sales shall be prohibited.

D. Separation Requirements:

1. No collective garden shall be permitted within five hundred (500) feet of any other collective garden.
2. No collective garden shall be permitted within five hundred (500) feet of any community center or school.
3. No collective garden shall be permitted within five hundred (500) feet of any public park, preschool, or licensed daycare. For the purposes of this chapter the Tommy Thompson Trail shall not be considered a public park.
4. No collective garden shall be permitted within 100 feet of a residential use zone.
5. Measurement: The measurement shall be taken in a straight line from the point on the property line of the uses specified in this section closest to the collective garden to the nearest physical point of the tenant space or structure housing a collective garden.
6. A use specified in this subsection shall not benefit from the separation requirements of this subsection if the use chooses to locate within the required separation distance from a lawfully located collective garden. A collective garden is lawfully located if it has located within the City in accordance with the requirements of this section.

E. Security Requirements: A collective garden shall:

1. Have installed, prior to issuance of a Collective Garden Safety License, an operational security system that is remotely monitored by an approved monitoring company 24 hours a day; and
2. Have installed, prior to issuance of a Collective Garden Safety License, an operational security camera system which retains recordings from all installed cameras for a period of not less than sixty (60) days.

F. Signage: With the exception of an address sign, signage is prohibited.

G. Parking requirements shall be determined by the planning director, or his/her designee, based on site conditions and building area with a minimum two (2) spaces required.

H. Areas where cannabis is grown or stored must be provided with ventilation systems so that no odors are detectable off the premises.

I. Consumption of cannabis, products containing cannabis or alcohol on the premises is prohibited.

**Section 5.** A new chapter 5.50 is hereby added to the AMC to read as follows:

## Chapter 5.50 Collective Garden Safety License

### 5.50.010 Definitions

- A. "Person" means one or more qualifying patients, corporations, partnerships, associations or other entities capable of having an action at law brought against such entity, but shall not include employees of persons licensed pursuant to this chapter.
- B. "Collective garden" means the growing, production, processing, and/or delivery of cannabis for medical use by up to ten collective members as set forth in Chapter 69.51A RCW and subject to the limitations therein and in this ordinance. Each collective garden shall have no more than forty five (45) plants and twenty four (24) ounces of usable cannabis per patient, up to a maximum of seventy two (72) ounces of usable cannabis on site. As used herein any constituent part of a collective garden shall be considered as a collective garden.
- C. "City" means City of Anacortes.

### 5.50.020 Collective Garden Safety License required.

It is unlawful for any person to conduct, operate, or engage in a collective garden in the City unless the person is a member of the collective garden and unless the collective garden has first obtained a currently valid Collective Garden Safety License from the City. No collective garden may operate within five hundred (500) feet of another collective garden.

A City of Anacortes business license shall not be required.

### 5.50.030 Application Requirements: An application for a collective garden shall include the following information.

- a. The application shall be made by a qualifying patient and include valid documentation of that status as described in Chapter 69.51A RCW.
- b. The applicant shall have a background check administered by the Anacortes Police Department to ensure that the applicant has not been convicted of a felony for a drug law violation within the past ten (10) years. This background check may be combined with the background check required for a Collective Garden Safety License by AMC 5.50.070.
- c. A map drawn to scale showing all collective gardens, community centers, schools, public parks, preschools, and licensed day care centers within 500 feet of the parcel proposed for the collective garden. A survey map showing these features prepared by a surveyor licensed in the state of Washington may be required by the Planning Director.

### 5.50.040 Application procedure

- A. Applicants for a license under this chapter must file with the Planning Director or his/her designee, an application in writing on a form to be furnished by the Planning Department.
- B. All applicants, who must be a member of the collective garden, must supply the following information:
1. Name, date of birth, valid driver's license;
  2. Name, physical address, mailing address, and phone number of the collective garden;

3. Whether or not the applicant(s) has ever been convicted of a crime related to the drug laws, and if so, the details thereof;
  4. Fingerprints for a background check; see AMC 5.50.080 Background Check, below;
  5. Any other information as may be required by the Planning Director, or his/her designee.
- C. Application for a collective garden license shall be accompanied by the proper fee.
  - D. The Planning Director, or his/her designee, shall approve or deny the license. If an application is denied by the Planning Director, the reason for denial shall be stated.
  - E. Neither the filing of an application for a license, or the renewal thereof, nor the payment of any application or renewal fee, shall authorize a person to engage in or conduct a collective garden until such license has been granted or renewed.

#### 5.50.050 License application form

The collective garden safety license application shall contain the provision that additional permits or licenses may be necessary before the collective garden can commence operation.

#### 5.50.060 Term of license

A collective garden safety license shall be valid for one (1) year from the date of issuance.

#### 5.50.070 Fees

- A. The fee for each license required by this chapter shall be three-hundred fifty (\$350.00). The fee for renewal of the license shall be one-hundred forty dollars (\$140.00) per year.
- B. Any person required to have or obtain a Collective Garden Safety License who fails to obtain and pay the license fees within 30 days of notice, in addition to any other penalties provided in this chapter, shall be assessed a \$25.00 late fee.

#### 5.50.080 Background check

- A. An applicant applying for Collective Garden Safety License shall submit fingerprints and appropriate fees as established by the Anacortes Police Department to the City. The City will submit the prints to the Washington State Patrol and the Federal Bureau of Investigation. Upon receipt of the fingerprints and the appropriate fees, the Washington State Patrol will compare the subject's fingerprints against its criminal database and submit the fingerprints to the Federal Bureau of Investigation for a comparison with nationwide records. The results of the Washington State Patrol and Federal Bureau of Investigation's check will be returned to the City. Upon receipt of the results, the City will decide whether the applicant has had a felony conviction within the past 10 years for an offense directly related to the permit request for a Collective Garden.
- B. The Planning Director, or his/her designee, shall deny a license if the background check shows that the applicant(s) has been convicted of a felony related to drug laws within the past ten (10) years.

#### 5.50.090 Security and other permit requirements

Prior to issuance of a license under this chapter, a collective garden shall:

- A. Have installed an operational security alarm system that is monitored 24 hours a day; and
- B. Have installed an operation security camera system which retains recordings from all installed cameras for a period of not less than sixty (60) days.
- C. Have approval of any required additional permits and or approvals such as, but not limited to, a building permit, zoning review and other construction permits, and show compliance with conditions of approval.

#### 5.50.100 Ineligible activities.

The granting of a collective garden safety license shall not be construed as the City's authorization of any person to engage in any activity prohibited by Federal, State or Local law or regulation.

Every permit issued under this section shall state:

It is a criminal offense under the Federal Controlled Substances Act to (among a number of other things) manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense marijuana or to create, distribute, or dispense, or posses with intent to distribute or dispense marijuana. The issuance of this permit, as authorized by Washington state law, does not authorize the permittee or any other person to violate federal law. Any person violating federal law may be subject to prosecution by federal authorities.

#### 5.50.110 Revocation or suspension of license – Grounds

The Planning Director, or his/her designee, may, at any time, suspend or revoke any license issued under the provisions of this chapter whenever the licensee, or any officer, employee or partner thereof:

- A. Has violated any State or City statute, law, regulation or ordinance upon the collective garden premises stated in the license or in connection with the collective garden stated in the license, whether or not the licensee, or officer or partner thereof, has been convicted in any court of competent jurisdiction of such violation; or
- B. Has maintained or permitted the collective garden stated in the license to be conducted, engaged in or operated in such manner as to constitute a public nuisance or in violation of any City regulation; or
- C. Has been convicted of a felony related to drug laws within the past ten (10) years; or
- D. Has made any material false statement or representation in connection with obtaining the license.

#### 5.50.120 Penalty

Any person violating any of the provisions of this chapter shall be guilty of a civil infraction and, upon conviction, shall be punished in accordance with the provisions set forth in AMC 5.04.170. As to violations of AMC 5.50.020 Collective Garden Safety License Required, the City Prosecuting Attorney shall have the discretion to file such violations as civil infractions or criminal misdemeanors.

**Section 6.** Repeal of Ordinance 2861. Ordinance 2861, passed by the City Council on September 6, 2011, is hereby repealed.

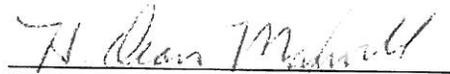
**Section 7.** Repeal of Ordinance 2873. Ordinance 2873, passed by the City Council on March 12, 2012, is hereby repealed.

**Section 8.** Severability. The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

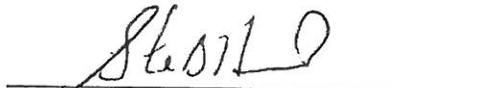
**Section 9.** Effective Date. This Ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect from and after five (5) days after its passage and publication as required by law.

PASSED AND APPROVED by the Anacortes City Council this 20<sup>th</sup> day of August, 2012.

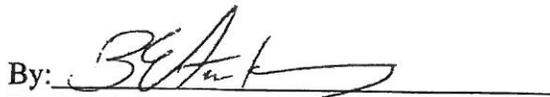
CITY OF ANACORTES

  
H. Dean Maxwell, Mayor

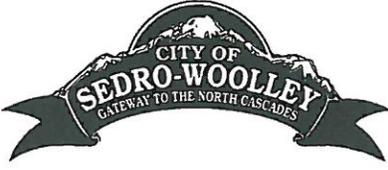
ATTEST:

  
Steve D. Hoglund, City Clerk/Treasurer

APPROVED AS TO FORM:

By:   
Bradford E. Furlong, WSBA# 12924  
City Attorney

Passed by the City Council: August 20, 2012  
Published: August 29, 2012  
Effective:



**CITY COUNCIL  
WORKSESSION**

**DEC 05 2012**

**AGENDA ITEM**     B    

**Building and Planning Departments**  
Sedro-Woolley Municipal Building  
325 Metcalf Street  
Sedro-Woolley, WA 98284  
Phone (360) 855-0771  
Fax (360) 855-0733

---

**MEMO:**

**To:** City Council  
Mayor Anderson

**From:** John Coleman, AICP  
Planning Director

**Date:** December 5, 2012 Worksession

**Subject:** Alternate payment schedule for impact fees and general facility charges for single-family houses constructed for resale (spec homes) – **1<sup>st</sup> Read**

---

**ISSUE**

Should the Council approve the attached ordinance to allow an alternate payment schedule for impact fees and general facility charges for single-family houses constructed for resale?

**PROJECT DESCRIPTION / HISTORY**

In September 2010, Council passed ordinance 1682-10, which granted an optional payment timeframe for impact fees and general facility charges (AKA "impact fee deferral"). That ordinance expired in December 2011. Customers have expressed an interest in taking advantage of an impact fee deferral system to construct spec homes on existing lots. As discussed at the previous City Council meeting, the proposed ordinance has been drafted to reinstate the impact deferral system with no sunset date.

**ATTACHMENTS**

Attachment 1 – Proposed ordinance regarding impact fee deferrals

**RECOMMENDATION**

1<sup>st</sup> Read – No action requested at this time.

# **Attachment 1**

To Council Memo on Impact Fee Deferrals – 1<sup>st</sup> Read

## **Proposed Ordinance Regarding Impact Fee Deferrals**

**AN ORDINANCE MODIFYING SWMC TITLES 13 AND 15, GRANTING AN OPTIONAL PAYMENT TIMEFRAME FOR IMPACT FEES AND GENERAL FACILITY CHARGES**

**WHEREAS**, pursuant to the provisions of state law, Chapter 35A.63 of the Revised Code of Washington (RCW) and Chapter 36.70A RCW, the Sedro-Woolley City Council has adopted the Sedro-Woolley Municipal Code (SWMC), including Titles 13 and 15, which regulates impact fees and general facility charges; and

**WHEREAS**, as a result of the current downturn in the local economy, a diminishing number of new residential units are being built, which adversely impacts the City's housing stock, local economy and revenue for providing governmental services; and

**WHEREAS**, without intervention, the housing market may continue to languish and adverse consequences of decreased revenues, abandoned projects and underutilized land will occur; and

**WHEREAS**, a need exists to amend Titles 13 and 15 to afford more flexibility to applicants on the timing of payment of Street Impact Fees, Park Impact Fees, Fire Impact Fees, School Impact Fees, and Sewer General Facility Charges; and

**WHEREAS**, the City Council passed Ordinance 16820-10 which enacted the same alternate payment timeframes; Ordinance 1682-10 expired on December 31, 2011; and

**WHEREAS**, the ordinance amendments are procedural in nature, and therefore exempt from the State Environmental Policy Act (SEPA) review; and

**WHEREAS**, the City Council finds the proposed amendments to the SWMC contained in Sections 1 through 5 to be consistent with and to implement the intent of the Sedro-Woolley Comprehensive Plan; and

**WHEREAS**, the City Council has concluded that it is in the best interest of the public health, safety and welfare to adopt this ordinance;

**WHEREAS**, the City Council adopts the forgoing as its findings of fact justifying its adoption of this Ordinance;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SEDRO-WOOLLEY, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**Section 1.** Sedro-Woolley Municipal Code 15.60.110(A) shall be modified as follows:

**15.60.110 Payment of fees.**

A. All developers shall pay an impact fee in accordance with the provisions of this chapter at the time that the applicable building permit is ready for issuance.

Exception: For complete building permit applications, at the time of issuance of any single-family residential building permit for a dwelling unit that is being constructed for resale, the applicant/owner may elect to record a covenant, in a form to be approved by the city attorney, against the property that requires payment of the impact fees due and owed in accordance with this chapter and any

other applicable sections of the Sedro-Woolley Municipal Code, by providing for full payment through escrow of the fees due and owed to be paid at the time of closing of sale of the lot or unit; but in no case shall the structure be occupied prior to payment of impact fees. The awarding of credits shall not alter the applicability of this section.

It is the intention of this chapter that fees shall generally be due at time of issuance of building permits, rather than at time of subdivision or construction of unoccupied infrastructure not generating immediate impacts. However, if no building permit will be required of a project, then the impact fee may be assessed for any other development activity permit or development approval generating an impact for which the fee is required. The fee paid shall be the amount in effect as of the date of the permit application or approval is deemed completed and vested.

**Section 2.** Sedro-Woolley Municipal Code 13.16.035 shall be modified as follows:

**13.16.035 General facilities charge—Separate fund.**

In addition to any permit fees and other charges required by city ordinance or regulation, and not in lieu thereof, at the time of building permit issuance, (or if no building permit, then at time of connection or commencement of use,) there shall be a general facilities charge, for connection to the city sewer system which shall be paid in the sum of eight thousand nine hundred twenty-six dollars per equivalent residential unit (ERU), to be determined as set forth in this section.

Exception: For complete building permit applications, at the time of issuance of any single-family residential building permit for a dwelling unit that is being constructed for resale, the applicant/owner may elect to record a covenant, in a form to be approved by the city attorney, against the property that requires payment of the impact fees due and owed in accordance with this chapter and any other applicable sections of the Sedro-Woolley Municipal Code, by providing for full payment through escrow of the fees due and owed to be paid at the time of closing of sale of the lot or unit; but in no case shall the structure be occupied prior to payment of impact fees. The awarding of credits shall not alter the applicability of this section.

**Section 3.** Sedro-Woolley Municipal Code 13.16.037(C) [Utility connection fee—North Reed Street] shall be modified as follows:

C. Time of Payment. The special connection fee shall be due at the time of application for a building permit, if for a new structure, or at time actual connection or connection permit application, if for an existing structure.

Exception: For complete building permit applications, at the time of issuance of any single-family residential building permit for a dwelling unit that is being constructed for resale, the applicant/owner may elect to record a covenant, in a form to be approved by the city attorney, against the property that requires payment of the impact fees due and owed in accordance with this chapter and any other applicable sections of the Sedro-Woolley Municipal Code, by providing for full payment through escrow of the fees due and owed to be paid at the time of closing of sale of the lot or unit; but in no case shall the structure be occupied prior to payment of impact fees. The awarding of credits shall not alter the applicability of this section.

**Section 4.** Sedro-Woolley Municipal Code 13.16.039(C) [Utility connection fee—Fruitdale Road] shall be modified as follows:

C. Time of Payment. The special connection fee shall be due at the time of application for a building permit, if for a new structure, or at time actual connection or connection permit application, if for an existing structure.

Exception: For complete building permit applications, at the time of issuance of any single-family residential building permit for a dwelling unit that is being constructed for resale, the applicant/owner may elect to record a covenant, in a form to be approved by the city attorney, against the property that requires payment of the impact fees due and owed in accordance with this chapter and any other applicable sections of the Sedro-Woolley Municipal Code, by providing for full payment through escrow of the fees due and owed to be paid at the time of closing of sale of the lot or unit; but in no case shall the structure be occupied prior to payment of impact fees. The awarding of credits shall not alter the applicability of this section.

**Section 5.** Sedro-Woolley Municipal Code 13.16.038 (C) [Utility connection fee—Cook Road-Trail Road] shall be modified as follows:

C. Time of Payment. The special connection fee shall be due at the time of application for a building permit, if for a new structure, or at time actual connection or connection permit application, if for an existing structure

Exception: For complete building permit applications, at the time of issuance of any single-family residential building permit for a dwelling unit that is being constructed for resale, the applicant/owner may elect to record a covenant, in a form to be approved by the city attorney, against the property that requires payment of the impact fees due and owed in accordance with this chapter and any other applicable sections of the Sedro-Woolley Municipal Code, by providing for full payment through escrow of the fees due and owed to be paid at the time of closing of sale of the lot or unit; but in no case shall the structure be occupied prior to payment of impact fees. The awarding of credits shall not alter the applicability of this section.

**Section 6.** This ordinance shall be effective five (5) days after passage and publication as provided by law.

**Section 7.** The provisions of this resolution are declared to be severable, and if any section, sentence, clause or phrase of this resolution shall for any reason be held invalid or unconstitutional or if the application of this ordinance to any person or circumstances shall be held invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clause or phrases of this resolution.

**PASSED** by majority vote of the members of the Sedro-Woolley City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2012, and signed in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Mike Anderson, Mayor

Attest:

\_\_\_\_\_  
Patsy Nelson, Finance Director

Approved as to form:

\_\_\_\_\_  
Eron Berg, City Attorney

Published: