

**City Of Woodland
City Council Meeting Agenda Summary Sheet**

Agenda Item: Adopt Ord. 1268 imposing interim zoning regulations on Collective Gardens (First and Final Reading).	Agenda Item #: <u>Tabled</u> For Agenda of: <u>June 17, 2013</u> Department: <u>Planning</u> Date Submitted: <u>June 11, 2013</u>
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Cost of Item: 0
Amount Budgeted: _____
Unexpended Balance: _____

BARS #: Description:

Department Supervisor Approval: Carolyn Johnson, Community Development Planner
Committee Recommendation: The Planning Commission recommended approval of the interim zoning ordinance on June 19, 2012.

<p>Agenda Item Supporting Narrative (list attachments, supporting documents):</p> <ol style="list-style-type: none"> 1. City Attorney’s Memo 2. Interim Zoning Ordinance (revised to include 1,000 ft distance requirements) 3. RCW 36.70A.390: Moratoria, interim zoning controls – Public hearing – Limitation on length – Exceptions 4. The Joint Approach, a Proposal by Commissioner Jim Misner
<p>Summary Statement:</p> <p>On June 3, 2013 a motion was approved to amend Ordinance 1268 to increase distance requirements between collective gardens and certain uses such as schools and churches to 1,000 feet. However, a motion to approve the ordinance as amended did not pass. As a result, the Ordinance has been tabled and will remain so unless taken off the table by Council.</p> <p>The ordinance before you was drafted by AWC attorney Carol Morris as a model ordinance to be used by Washington jurisdictions. The Planning Commission made minor modifications to the ordinance as did Council at their last meeting. Passage of the interim ordinance is recommended by the Planning Commission and staff. While there is no “good” solution to the current situation, passage of Interim Ordinance 1268 appears to be the strongest legal option for the City.</p> <p>Interim zoning regulations, like moratoria, are put in place as a temporary measure before a permanent ordinance is adopted. An interim control is appropriate at this time because Woodland will soon be faced with zoning for recreational marijuana uses and there could be benefits in regulating collective gardens in a similar way. As such, staff proposes the following</p>

work schedule:

- June 17, 2013 – A draft ordinance that requires compliance with federal law and also sets location/siting requirements is put before Council as an interim zoning control. The effective date will be set for July 22, 2013, the date the moratorium is set to expire. The ordinance is to be in effect for 6 months.
- Within 60 days of Ordinance 1268 passing – Public Hearing before Council on Ordinance 1268. As per RCW 36.70A.390, a city governing body that adopts an interim zoning ordinance shall hold a public hearing within at least 60 days of its adoption.
- July 22, 2013 – The interim zoning ordinance goes into effect the same day that the moratorium expires.
- June 2013 through December 2013 – Community Development Planner, Amanda Smeller works with neighboring jurisdictions on the Joint Approach to regulating marijuana uses. A permanent ordinance that addresses both medical and recreational marijuana will be developed, taken through the Planning Commission, taken through the SEPA process, and allowed a public hearing before the Planning Commission.
- December 2013 through January 2014 – A first and second reading of a permanent ordinance goes before City Council. The ordinance covers medical and recreational marijuana. Concurrent with the passage of this ordinance, Council overturns the interim zoning ordinance 1268.

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TO: City of Woodland

ATTN: Grover Laseke, Mayor and City Council

FROM: William Eling

RE: Collective Gardens Interim Zoning Ordinance & Continuing Analysis

DATE: May 30, 2013

Part of the due diligence in advising the City has been engaging in conversations with other city attorneys and with MRSC legal department. What I have found is this: there is no consensus regarding a "best" alternative for communities facing the collective garden issue. Based on the current state of the law and the current state of the City's review of the issue, adopting an interim zoning ordinance on the timeline proposed by staff is a good alternative for the City. The interim zoning ordinance establishes compliance with the State law that requires cities to zone for collective gardens but balances this with sufficient community safeguards by not permitting collective gardens in all zones. An applicant under an interim zoning ordinance likely obtains a vested right to proceed under the rules in place at the time the application is deemed complete.

In my opinion, it is likely that when Initiative 502 is fully implemented, medical users will access the substance at the retail level and will not go through the procedural hoops required for collective gardens. I do not expect collective gardens to be an issue after implementation of the retail sale model.

The State-Federal criminal issue is not resolved by this ordinance. The City is in no position to resolve it. But in the way the ordinance is drafted, it provides a legal structure where City staff is not making discretionary decisions regarding a specific collective garden but is following a code requirement. The City is not then part of a specific individual's decision to operate or to participate in a collective garden.

A court could construe the City's business license ordinance to make collective gardens exempt as the gardens are not a "business" in the traditional sense. Non-recognition of collective gardens as a business has the side-effect of removing the City from "approving" of an individual act by an applicant. This will become more of a problem with the implementation of Initiative 502 because, for example, the retail sale of marijuana has the attributes of a traditional commercial transaction.

In my discussions with MRSC attorneys, I asked their opinion regarding the enforceability of a requirement that any "business" licensed by the City must not be prohibited or constitute a crime under Federal law. The argument goes as follows: Marijuana is considered a Schedule I drug under Federal law and its production and sale

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is prohibited under Federal law. Given the Federal prohibition, a city ordinance which allowed business licenses only for activity not prohibited under Federal law, a business involved in the production and sale of marijuana would not be eligible for a business license and could not do business in Woodland. MRSC attorneys did not believe the courts would enforce such a requirement. I think a contrary ruling is just as likely [unless Washington enacts a statute compelling municipalities to recognize such a business or explicitly pre-empting such authority, e.g. gambling] given the breadth of the police powers available to municipalities to regulate commerce within their territory.

In short, every alternative available to Washington cities has disadvantages and risks, leaving cities with the option of reducing the risks and ameliorating the disadvantages. The interim zoning ordinance reflects those realities.

ORDINANCE NO. 1268

AN INTERIM ZONING ORDINANCE OF THE CITY OF WOODLAND ADOPTING INTERIM ZONING CONTROLS FOR MEDICAL MARIJUANA COLLECTIVE GARDENS FOR A PERIOD OF SIX MONTHS, TO BE IN EFFECT WHILE THE CITY DRAFTS, CONSIDERS, HOLDS HEARINGS AND ADOPTS PERMANENT ZONING REGULATIONS FOR COLLECTIVE GARDENS.

WHEREAS, since 1970, federal law has prohibited the manufacture and possession of marijuana as a Schedule I drug, based on the federal government’s categorization of marijuana as having a “high potential for abuse, lack of any accepted medical use, and absence of any accepted safety for use in medically supervised treatment.” *Gonzales v. Raich*, 545 U.S. 1, 14 (2005), Controlled Substance Act (CSA), 84 Stat. 1242, 21 U.S.C. 801 et seq; and

WHEREAS, the voters of the State of Washington approved Initiative 692 (codified as RCW 69.51A in November 1998); and

WHEREAS, the intent of Initiative 692 was that qualifying “patients with terminal or debilitating illnesses who, in the judgment of their physicians, would benefit from the medical use of marijuana, shall not be found guilty of a crime under state law,” (RCW 69.51A.005), but that nothing in the law “shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of marijuana for non-medical purposes” (RCW 69.51A.020); and

WHEREAS, the Washington State Legislature passed ESSSB 5073 in 2011, which provides that a qualifying patient or his/her designated care provider are presumed to be in compliance, and not subject to criminal or civil sanctions/penalties/consequences, if they possess no more than 15 cannabis plants, no more than 24 ounces of usable cannabis (other qualifications apply); and

WHEREAS, Washington’s Governor vetoed all of the provisions relevant to medical marijuana dispensaries in ESSSB 5073 but left the provisions relating to cultivation of marijuana for medical use by qualified patients individually and in collective gardens; and

WHEREAS, in the Governor’s partial veto letter dated April 29, 2011, she stated that cooperative medical marijuana organizations should be exempted from state criminal penalties “conditioned on compliance with local government location and health and safety specifications” (page 3), creating a need to balance the interests of federal law, Washington medical marijuana patients and the health, safety and welfare of the community, (id.); and

WHEREAS, RCW 69.51A.0002 permitted qualifying patients “to create and participate in collective gardens for the purpose of producing, processing, transporting, and delivering cannabis for medical use,” provided no more than ten qualifying patients participate, a collective garden does not contain more than 15 plants per patient up to a total of 45 plants per garden, and the garden does not contain more than 24 ounces of useable cannabis per patient and up to a total of 72 ounces of useable cannabis; and

WHEREAS, under RCW 69.51A.060(1), it is a class 3 civil infraction to display medical cannabis in a manner or place which is open to view of the general public, which would include growing plants; and

WHEREAS, RCW 69.51A.130 allows local jurisdictions to adopt zoning requirements, business license requirements, health and safety requirements, and impose business taxes on the production, processing or dispensing of cannabis or cannabis products; and

WHEREAS, during the month of February 2012, it was learned that the Washington State Legislature would not be adopting any new regulations on medical marijuana; and

WHEREAS, the Council believes that the Governor's veto of the provisions in ESSSSB 5073 on the subject of medical marijuana dispensaries should be interpreted to mean that this use is prohibited by state law, and it is already prohibited under federal law; and

WHEREAS, as part of the process for the adoption of zoning regulations, the land use impacts of collective gardens must be identified; and

WHEREAS, the City of Woodland City Council believes that interim zoning regulations are necessary, until the City can consider all of the land use impacts of collective gardens, draft regulations, hold hearings and adopt new regulations; and

WHEREAS, the City adopted Ordinance 1260, imposing a six-month moratorium on medical marijuana collective gardens, expiring July 22, 2013; and

WHEREAS, on June 19, 2012 the Planning Commission recommended approval of the draft interim zoning ordinance to the City of Woodland City Council; and

WHEREAS, RCW 36.70A.390 authorizes the use of interim zoning ordinances to be in effect for not more than six (6) months; and

WHEREAS, per RCW 36.70A.390, the Woodland City Council shall hold a public hearing on the adopted interim zoning ordinance within at least sixty days of its adoption; and

NOW THEREFORE, the City Council of the City of Woodland do ordain as follows:

Section 1. Formal Repeal of Moratorium. Ordinance 1260, a six-month moratorium on medical cannabis collective gardens, is hereby repealed.

Section 2. Definitions:

- A. "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 purposes of this ordinance, "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, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted there from, 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.

- B. "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 ordinance and shall not be considered applicable to any criminal laws related to marijuana or cannabis.
- C. "Church" means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.
- D. "Collective Garden" means those gardens authorized under RCW 69.51A.085, which allows qualifying patients to assume 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 (as limited below). Qualifying patients may create and participate in collective gardens for the purpose of producing, processing, transporting and delivering cannabis for medical use subject to the following conditions:
 - 1) No more than ten qualifying patients may participate in a single collective garden at any time;
 - 2) A collective garden may contain no more than fifteen plants per patient up to a total of forty-five plants;
 - 3) A collective garden may contain no more than twenty-four ounces of usable cannabis per patient up to a total of seventy-two ounces of usable cannabis; and
 - 4) A copy of each qualifying patient's valid documentation or proof of registration with the registry established in state law (now or in the future), including a copy of the patient's proof of identity, must be available at all times on the premises of the collective garden; and
 - 5) No usable cannabis from the collective garden may be delivered to anyone other than one of the qualifying patients participating in the collective garden.
- E. "Cultivation" means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.
- F. "Designated care provider" means a person who:
 - 1) Is eighteen years of age or older;
 - 2) Has been designated in ((writing)) a written document signed and dated by a qualifying patient to serve as a designated provider under this ordinance and RCW 69.51A; and
 - 3) Is in compliance with the terms and conditions set forth in RCW 69.51A.040. A qualifying patient may be the designated provider for another qualifying patient and be in possession of both patients' cannabis at the same time.
- G. "Indoors" means within a fully enclosed and secure structure that complies with the Washington State Building Code, as adopted by the City, that has a complete roof enclosure supported by

connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2” by 4” or thicker studs overlain with 3/8” or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

- H. “Legal parcel” means a parcel of land for which one legal title exists. Where contiguous legal parcels are under common ownership or control, such legal parcels shall be counted as a single parcel for purposes of this ordinance.
- I. "Medical (or medicinal) use of cannabis" means the manufacture, production, processing, possession, transportation, delivery, ingestion, application, or administration of cannabis for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating medical condition.
- J. “Outdoors” means any location that is not “indoors” within a fully enclosed and secure structure as defined herein.
- K. "Person" means an individual or an entity.
- L. "Personally identifiable information" means any information that includes, but is not limited to, data that uniquely identify, distinguish, or trace a person's identity, such as the person's name, or address, either alone or when combined with other sources, that establish the person is a qualifying patient or designated provider.
- M. "Plant" means an organism having at least three distinguishable and distinct leaves, each leaf being at least three centimeters in diameter, and a readily observable root formation consisting of at least two separate and distinct roots, each being at least two centimeters in length. Multiple stalks emanating from the same root ball or root system shall be considered part of the same single plant.
- N. "Process" means to handle or process cannabis in preparation for medical use.
- O. "Produce" means to plant, grow, or harvest cannabis for medical use.
- P. "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; premises where goods and services are offered to the public for retail sale; public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages, and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, buses, ferries, and other public conveyances of all kinds and character, and the depots, stops, and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.
- Q. "Qualifying patient" means a person who:
 - 1) Is a patient of a health care professional;
 - 2) Has been diagnosed by that health care professional as having a terminal or debilitating medical condition;
 - 3) Is a resident of the state of Washington at the time of such diagnosis;

- 4) Has been advised by that health care professional about the risks and benefits of the medical use of cannabis;
- 5) Has been advised by that health care professional that he or she may benefit from the medical use of cannabis; and
- 6) Is otherwise in compliance with the terms and conditions established in chapter RCW 69.51A.

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 ordinance and RCW 69.51A are inconsistent with and contrary to his or her supervision and all related processes and procedures related to that supervision.

- R. "Residential treatment facility" means a facility providing for treatment of drug and alcohol dependency;
- S. "School" means an institution of learning for minors, whether public or private, offering regular course of instruction required by the Washington Education Code, or any child or day care facility. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher learning, including a community or junior college, college or university.
- T. "Terminal or debilitating medical condition" means:
 - 1) Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or
 - 2) Intractable pain, limited for the purpose of this ordinance to mean pain unrelieved by standard medical treatments and medications; or
 - 3) Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications; or
 - 4) Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications; or
 - 5) Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or
 - 6) Diseases, including anorexia, which result in nausea, vomiting, cachexia, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications; or
 - 7) Any other medical condition duly approved by the Washington state medical quality assurance commission in consultation with the board of osteopathic medicine and surgery as directed in this chapter.
- U. "THC concentration" means percent of tetrahydrocannabinol content per weight or volume of useable cannabis or cannabis product.
- V. "Useable cannabis" means dried flowers of the Cannabis plant having a THC concentration greater than three-tenths of one percent. Useable cannabis excludes stems, stalks, leaves, seeds, and roots. For purposes of this subsection, "dried" means containing less than fifteen percent moisture content by weight. The term "useable cannabis" does not include cannabis products.
- W. "Valid documentation" means:

- 1) A statement signed and dated by a qualifying patient's health care professional written on tamper-resistant paper, which states that, in the health care professional's professional opinion, the patient may benefit from the medical use of cannabis;
 - 2) Proof of identity such as a Washington state driver's license or identocard, as defined in RCW 46.20.035; and
 - 3) In the case of a designated provider, the signed and dated document valid for one year from the date of signature executed by the qualifying patient who has designated the provider.
- X. "Youth-oriented facility" means elementary school, middle school, high school, public park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors. This shall not include a day care or preschool facility.

Section 3. Applicability. No part of this chapter is intended to or shall be deemed to conflict with federal law, including but not limited to, the Controlled Substances Act, 21 U.S.C. Section 800 et seq., the Uniform Controlled Substances Act (chapter 69.50 RCW) nor to otherwise permit any activity that is prohibited under either Act, or any other local, state or federal law, statute, rule or regulation.

Section 4. Restrictions on Medical Cannabis for Personal Use.

- A. RCW 69.51A.040 allows an individual qualifying patient or designated provider to cultivate medical cannabis for personal use within his/her private residence, as long as the qualifying patient or designated provider:
- 1) possesses no more than fifteen (15) cannabis plants;
 - 2) possesses no more than twenty-four (24) ounces of usable cannabis;
 - 3) possesses no more cannabis product than what could reasonably be produced with no more than twenty-four (24) ounces of usable cannabis; or
 - 4) possesses a combination of usable cannabis and cannabis produce that does not exceed a combination total representing possession and processing of no more than twenty-four (24) ounces of usable cannabis.

If a person is both a qualifying patient and a designated provider for another patient, RCW 69.51A.040 allows possession of no more than twice the amounts described in subsection (1) of this section, whether the plants, usable cannabis, and cannabis products are possessed individually or in combination between the qualifying patient and his or her designated provider. (This section does not list all of the limitations on such use in RCW 69.51A.040 or chapter 69.51A RCW. This section is only meant to provide sufficient information to distinguish between cultivation of medical cannabis for personal use, as opposed to cultivation of medical cannabis in a Collective Garden, and to establish certain land use restrictions on such cultivation.)

- B. Any cultivation of medical cannabis for personal use under chapter 69.51A RCW shall not exceed the following standards:
- 1) The medical cannabis cultivation area shall not exceed fifty (50) square feet in length and not exceed ten (10) feet in height per residence.

- 2) Medical cannabis cultivation lighting shall not exceed 1200 watts.
- 3) Use of gas products (CO2, butane, etc.) for medical cannabis cultivation or processing is prohibited.
- 4) Medical cannabis cultivation and sale is prohibited as a Home Occupation. Medical marijuana cultivation and sales is not considered an accessory use in residential zones.
- 5) From a public right of way, there shall be no exterior evidence of medical cannabis cultivation either within or outside the residence.
- 6) The qualified patient or designated provider shall reside in the residence where the medical cannabis cultivation occurs.
- 7) The qualified patient or designated provider cultivating cannabis for personal use shall not participate in any Collective Garden or other medical cannabis cultivation in any other residential location.
- 8) The residence shall maintain a kitchen, bathrooms, and primary bedrooms for their intended use and shall not be used primarily for medical cannabis cultivation.
- 9) The medical cannabis cultivation area shall be in compliance with the current, adopted edition of the Washington State Building Code provisions regarding natural ventilation or mechanical ventilation (or its equivalents).
- 10) The medical cannabis cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.

Section 5. Location Restrictions.

- A. Collective Gardens may be established only in the following zoning districts and locations.
- 1) Collective Gardens in Outdoor Locations.
 - a. Collective Gardens shall not be located outdoors in any zone other than the Heavy Industrial (I-2) zoning district.
 - 2) Separation: Outdoor Collective Gardens shall not be located:
 - a. within 1,000 feet of a youth-oriented facility, a school, park, church or residential treatment facility as measured from the nearest edge of property line to nearest edge of property line.
 - b. outdoors within 1,000 feet of any occupied legal residential structure located on a separate legal parcel as measured from the nearest edge of property line to nearest edge of property line.
 - 3) Collective Gardens in Indoor Locations.
 - a. Indoor Collective Gardens shall not be located in any zone other than the following:
 - i. Heavy Industrial Zoning District (I-2).
 - 4) Prohibited Areas. In addition to the above, Collective Gardens shall not be allowed in the following areas:
 - a. Indoors or outdoors within 1,000 feet of a youth-oriented facility, a school, a park, or any church or residential treatment facility;
 - b. Outdoors within 1,000 feet of any occupied legal residential structure located on a separate legal parcel;

- c. Outdoors in a mobile home park within 1,000 feet of an occupied mobile home;
 - d. Indoors or outdoors within 1,000 feet of any other Collective Garden; and
 - e. In any location where the cannabis plants are visible from the public right of way or publicly traveled private roads.
- 5) The distance between the above-listed uses and the Collective Garden where the cannabis is being cultivated shall be measured in a straight line from the nearest point on the fence required by this chapter, or if the cannabis is cultivated indoors, from the nearest exterior wall of the building in which the cannabis is cultivated to the nearest boundary line of the property on which the facility, building or structure or portion of the facility, building or structure in which the above-listed use occurs is located.
 - 6) Accessory Uses. Collective Gardens, located indoors or outdoors, shall not be allowed as an accessory use.
 - 7) Home Occupation Use Prohibited. Collective Gardens, located indoors or outdoors, are prohibited as Home Occupations.

Section 6. Operating Standards.

- A. Indoor or Outdoor Operation. The following restrictions apply to the operation of Collective Gardens, whether they are located indoors or outdoors.
 - 1) Odor. The cultivation of cannabis shall not subject residents of neighboring parcels who are of normal sensitivity to objectionable odors.
 - 2) Lighting. All lights used for the cultivation of cannabis shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel upon which they are placed.
 - 3) Noise. The cultivation of medical cannabis in a Collective Garden shall not exceed the noise level standards as set forth in chapter 17.48 of the Woodland Municipal Code.
 - 4) Visibility. Cannabis shall not be grown or on display in any location where the cannabis plants are visible from the public right of way or a public place.
 - 5) Signage. There shall be no exterior signage relating to the Collective Garden.
 - 6) Gas Prohibited. The use of gas products (CO₂, butane, etc.) for medical cannabis cultivation is prohibited.
 - 7) Compliance with Codes. The Collective Garden shall be in compliance with the applicable provisions of the currently adopted edition of the Washington State Building Code.
 - 8) Nuisance. The Collective Garden shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other adverse impacts, or be hazardous due to use or storage of materials, processes, products or waste.
- B. Outdoor Operation. In addition to the operation restrictions in subsection A above, the following restrictions apply to Collective Gardens located outdoors:
 - 1) Lighting. The use of light assistance for the outdoor cultivation of cannabis shall not exceed a maximum of six hundred (600) watts of lighting capacity per one hundred (100) square feet of growing area.

- 2) Fencing. All cannabis grown outside of any structure or building must be fully enclosed by a secure, sight-obscuring fence at least six (6) feet in height. The fence must include a lockable gate that is locked at all times when a qualified patient is not in the immediate area. Said fence shall not violate any other ordinance or code provision relating to height and location restrictions and shall not be constructed or covered with plastic or cloth except shade cloth may be used on the inside of the fence.
- C. Indoor Operation. In addition to the operation restrictions in subsection A above, the following restrictions shall apply to Collective Gardens located indoors:
- 1) Limitation on Square Footage Devoted to Collective Garden. The indoor Collective Garden shall be limited to no more than one hundred (100) contiguous square feet per legal parcel.
 - 2) Exterior Appearance. The indoor Collective Garden shall be located in a structure within a fully enclosed and secure structure, as defined in section 2(G).
 - 3) Lighting. Interior structure lighting, exterior structure lighting and driveway and/or parking area lighting shall be of sufficient foot-candles and color rendition so as to allow the ready identification of any individual committing a crime on site at a distance of no less than forty feet from the structure.
 - 4) Security. Security measures at the Collective Garden shall include, at a minimum, the following:
 - a. robbery and burglary alarm systems which are professionally monitored and maintained in good working condition;
 - b. exterior lighting that illuminates all exterior entrances;
 - c. deadbolt locks on all exterior doors; and
 - d. windows and roof hatches secured with bars on the windows so as to prevent unauthorized entry, and be equipped with latches that may be released quickly from the inside to allow exit in the event of an emergency.
- D. Delivery only among members. No usable cannabis from the Collective Garden may be delivered to anyone other than one of the qualifying patients participating in the Collective Garden. Collective Gardens employees/volunteers or Collective Garden members may not sell any cannabis plants or usable cannabis. Such activities may be prosecuted under the Uniform Controlled Substances Act, chapter 69.58 RCW.
- E. No on-site sales of paraphernalia. There shall be no on-site display or sale of paraphernalia used for the use or consumption of medical cannabis at the Collective Garden.
- F. Nuisance. Nothing in this section (or this Chapter) shall be construed as a limitation on the City's authority to abate any violation which may exist from the cultivation of cannabis plants from any location, indoor or outdoor, including from within a fully enclosed and secure building.

Section 7. Violations.

- A. It is a violation of this Chapter for any person owning, leasing, occupying or having charge or possession of any parcel of land within any unincorporated area of the City to cause or allow such parcel of land to be used for the indoor or outdoor cultivation of marijuana or cannabis plants for medicinal purposes in excess of the limitations set forth herein.

- B. The cultivation of more than the number of cannabis plants set forth in this Chapter on one legal parcel, either indoors or outdoors, within the City, regardless of whether the persons growing the cannabis is/are a “qualified patient,” or members of a “collective garden” as defined herein, is hereby prohibited.
- C. Any violations of this Chapter may be enforced as set forth in Chapters 17.88 and 17.92, or as applicable, the Uniform Controlled Substances Act, chapter 69.58 RCW.

Section 8. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful 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 9. Effective Date. This ordinance shall be effective on July 22, 2013, after publication of an approved summary, which shall consist of the title.

ADOPTED IN OPEN MEETING ____ day of _____, 2013.

CITY OF WOODLAND, WASHINGTON

Approved:

Grover Laseke, Mayor

Attest:

Mari E. Ripp, Clerk / Treasurer

Approved as to form:

Bill Eling, City Attorney

RCW 36.70A.390

Moratoria, interim zoning controls — Public hearing — Limitation on length — Exceptions.

A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

This section does not apply to the designation of critical areas, agricultural lands, forest lands, and mineral resource lands, under RCW 36.70A.170, and the conservation of these lands and protection of these areas under RCW 36.70A.060, prior to such actions being taken in a comprehensive plan adopted under RCW 36.70A.070 and implementing development regulations adopted under RCW 36.70A.120, if a public hearing is held on such proposed actions.

[1992 c 207 § 6.]

Collaborative Policy and Planning for Marijuana Legalization in Cowlitz County aka; “The Joint Approach”

Presented by Cowlitz County Commissioner Jim Misner

With the passing of Washington State Initiative 502, marijuana legalization for recreational use will be implemented throughout the remainder of this year. The state has until December 1, 2013, to establish other key rules. Section 1 of I-502 reads:

- (1) Allows law enforcement resources to be focused on violent and property crimes;
- (2) Generates new State and Local tax revenue for education, health care, research, and substance abuse prevention; and
- (3) Takes marijuana out of the hands of illegal drug organizations and brings it under a tightly regulated, state licensed system similar to that of controlling alcohol. This measure authorizes the state liquor control board to regulate and tax marijuana for persons twenty one years of age and older, and add a new threshold for driving under the influence of marijuana.

Though the state will determine the specific elements of laws pertaining to marijuana legalization, Cowlitz County and the cities within its borders; Longview, Kelso, Woodland, Kalama, and Castle Rock must establish mutual strategies and develop consistent local ordinances regarding the risks and benefits associated with this law in the following areas:

1) Land use planning and zoning

- A) Growing
- B) Manufacturing:
- C) Dispensaries
- D) Retail Distribution
- E) Advertising
- F) Inspection and approval/denial/compliance responsibility
- G) Site Security

2) Public Health & Safety

- A) Smoking Clubs and Establishments conflicts with may state laws
- B) Local business fees & licensing
- C) Marijuana induced Food & Preparation Inspections
- D) Building compliance
- E) The effects on achieving public health goals

3) Law Enforcement and Judicial

- A) Conflicts in current State and Federal Laws: Medical vs. Recreational etc.
- B) Legal licensed operations vs. illegal unregulated sales and use
- C) Intoxication levels/DUI
- D) Legal vs. illegal marijuana; what's the difference
- E) Public Sales prohibited i.e. Farmers Markets
- F) Marijuana raw product vs. Marijuana infused products.

This proposal is for Cowlitz County and the cities within its boundaries to commit to working collaboratively to draft clearly written ordinances and laws for the public and law enforcement regarding growing, manufacturing, distribution, and use of Marijuana and cannabis base products.