

**Mayor's Office**

230 Davidson Ave  
Woodland, WA 98674

June 19, 2013

To: Woodland City Council

From: Mayor Grover Laseke

RE: Collective Gardens

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The City of Woodland has been struggling with the Collective Garden issue since the first zoning moratorium (Ord #1222) was passed on January 17, 2012. Since that time, we have passed two more zoning moratoriums, always with the idea that at the end of the moratorium we will find the answer to this dilemma. We have studied the issue and discussed it at workshops and council meetings. The current moratorium (Ord #1260) expires on July 22, 2013, and in my opinion, we are no closer to a solution to the dilemma than we were in January, 2012.

At the May 20th City Council Workshop, city staff presented three options to the council. The option preferred by the council resulted in Ordinance #1268 which was presented on June 3, 2013. This ordinance was not passed due to a tie vote. The council had the option to consider the ordinance again on June 17<sup>th</sup>, however, no action was taken and the ordinance died.

Staff and the city council have spent considerable time on this issue. Ordinance #1268 was based on an ordinance recommended by the Association of Washington Cities, was approved by the Woodland Planning Commission and the recommendation of the City Attorney. While not perfect, this interim ordinance is a reasonable compromise that puts us in compliance with state law and states that it does not permit any activity that is in violation of local, state or federal law (Section 3).

We have reached a critical juncture on this issue. We have two more city council meetings before the moratorium expires on July 22<sup>nd</sup>. Councilmember Fredricks has

forwarded to me a suggestion for another moratorium with a timeline (see attached) for staff to complete certain work. In reviewing this suggestion with staff, it appears to be nothing more than kicking the can down the road again. I will not sign another moratorium on the Collective Gardens issue without some convincing argument to the contrary.

If no ordinance is passed by the Council, whether it be a moratorium, an interim zoning ordinance or a zoning ordinance, the city attorney believes that it is likely that a state court would find that the City had not exercised the authority granted to it by the State to regulate collective gardens by zoning controls. As a result, there is a significant probability that a Court would conclude that in the absence of a zoning ordinance specifying the zone in which collective gardens are permissible, a person could operate a collective garden inside Woodland in *any* zone, including residential. The City would not have a legal basis to condition the operation or regulate any such collective garden inside the city. An unresolved issue is whether this would result in the creation of a vested right to operate, even if the council later enacts an ordinance restricting collective gardens to a specific zone.

This issue is on the agenda for our workshop on June 24<sup>th</sup>. Once again, staff and I are searching for direction from the Council. My recommendation is to pass Ordinance #1268 and to make whatever changes are needed in the permanent ordinance in January 2014, however, I am open to another reasonable alternative.

Please contact me if you have any questions or comments.

## Mari Ripp

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**From:** Grover Laseke  
**Sent:** Wednesday, June 19, 2013 9:31 AM  
**To:** Mari Ripp  
**Subject:** FW: Collective Gardens Moratorium Extension  
**Attachments:** Fredricks Collective Gardens Moratorium Extension Work Plan 6-11-2013 (3).pdf

Mari-

Attached is a packet of information on the Collective Gardens which has been provided by Benjamin for discussion at the workshop next Monday. Please put it in the packet.

Grover

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**From:** Benjamin Fredricks  
**Sent:** Wednesday, June 12, 2013 3:04 PM  
**To:** Grover Laseke  
**Subject:** Collective Gardens Moratorium Extension

Grover:

Per our conversation I would like to schedule a public hearing on extending the moratorium for an additional 6 months and have that hearing during the first meeting in July. This would be an alternative to the proposed item that failed at the last council meeting 3-3. I have attached a proposed work plan for staff.

Again, the main purpose here is to provide guidance to staff if the first ordinance on the draft agenda should either not be brought up or if it fails for a lack of a majority vote.

Regards,

**Benjamin Fredricks**  
**Woodland City Council Pos #6**  
PO Box 9 / 230 Davidson Ave  
Woodland, WA 98674  
Cell: 503-200-0859

***"Any people that would give up liberty for a little temporary safety deserves neither liberty nor safety."  
Benjamin Franklin***

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## Collective Gardens Work plan

The city of Woodland needs more time for research to determine the appropriate regulatory framework for any new uses that are currently allowed, or may soon be allowed, under Washington law as it relates to Medical Marijuana, or to other legal marijuana uses authorized by Initiative 502, in order to properly zone and draft development regulations related to these uses. Therefore, the city is developing and pursuing a work program to analyze potential changes to the city zoning, business licensing, and other regulations that may be necessary to address changes in state law and the impact of federal law, and bring any such proposed amendments to the Woodland Municipal Code before the City Council for deliberation and consideration. The work plan is now as follows, and may be further revised as circumstances warrant:

- (1) Staff will evaluate the impact of the implementation of Initiative 502 on the City, including research and analysis to recommend additional land use and other regulations needed to address issues raised by the terms of Initiative 502. The staff's work in this regard cannot be finalized until after the adoption of rules by the State Liquor Control Board, now scheduled for December 2013.
- (2) Staff will review relevant reports and opinions produced by other agencies, including but not limited to:
  - Memorandum for Selected United State Attorneys, Subject: Investigations and Prosecutions in States Authorizing the Medical Use of Marijuana, U.S. Department of Justice, Office of the Deputy Attorney General.
  - Memorandum for Selected United State Attorneys, Subject: Guidance Regarding the Ogden Memo in Jurisdictions Seeking to Authorize Marijuana for Medical Use, U.S. Department of Justice, Office of the Deputy Attorney General.
  - U.S. Department of Justice Drug Enforcement Administration, Subject: Application of the Controlled Substance Act (CSA) to the Board of Clark County Commissioners and Clark County Employees
- (3) Staff will research state and federal law associated with the regulation of Medical Marijuana and other legal uses of marijuana.

- (4) Staff will review relevant land use regulations from other jurisdictions, including but not limited to:
- City of Yakima – Review Section 15.01.035 of the Yakima City Code; no use that is illegal under local, state, or federal law shall be allowed in any zone of the city, such regulation applies to medical marijuana dispensaries and collective gardens.
  - City of Kent – Review ordinance prohibiting medical marijuana collective gardens in all zones of the City and have the City Attorney review the lawsuit filed against Kent by Cannabis Action Coalition against Kent, King County Superior Court Cause No. 12-2-19726-1.
  - Pullman – Regulations requiring review by Police Department and Department of Justice approval of land use activity.
  - City of Shoreline – Review land use regulations covering collective gardens for the growing and distribution of medical cannabis as permitted land use.
- (5) Staff will map the City of Woodland and calculate 1,000 foot setback from sensitive uses such as schools. Federal law prohibits the production, processing, and dispensing of medical cannabis or medical cannabis products, and strict sentencing guidelines enhance the penalties for violations of more than 99 plants within 1,000 feet of school, and state law strictly enhances the penalties for violations of the Controlled Substances Act for violations within 1,000 feet of a school. Thorough mapping of sensitive uses is necessary prior to consideration of zoning regulations containing setbacks from such uses.



U.S. Department of Justice

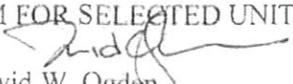
Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

October 19, 2009

MEMORANDUM FOR SELECTED UNITED STATES ATTORNEYS

FROM:   
David W. Ogden  
Deputy Attorney General

SUBJECT: Investigations and Prosecutions in States  
Authorizing the Medical Use of Marijuana

This memorandum provides clarification and guidance to federal prosecutors in States that have enacted laws authorizing the medical use of marijuana. These laws vary in their substantive provisions and in the extent of state regulatory oversight, both among the enacting States and among local jurisdictions within those States. Rather than developing different guidelines for every possible variant of state and local law, this memorandum provides uniform guidance to focus federal investigations and prosecutions in these States on core federal enforcement priorities.

The Department of Justice is committed to the enforcement of the Controlled Substances Act in all States. Congress has determined that marijuana is a dangerous drug, and the illegal distribution and sale of marijuana is a serious crime and provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. One timely example underscores the importance of our efforts to prosecute significant marijuana traffickers: marijuana distribution in the United States remains the single largest source of revenue for the Mexican cartels.

The Department is also committed to making efficient and rational use of its limited investigative and prosecutorial resources. In general, United States Attorneys are vested with "plenary authority with regard to federal criminal matters" within their districts. USAM 9-2.001. In exercising this authority, United States Attorneys are "invested by statute and delegation from the Attorney General with the broadest discretion in the exercise of such authority." *Id.* This authority should, of course, be exercised consistent with Department priorities and guidance.

The prosecution of significant traffickers of illegal drugs, including marijuana, and the disruption of illegal drug manufacturing and trafficking networks continues to be a core priority in the Department's efforts against narcotics and dangerous drugs, and the Department's investigative and prosecutorial resources should be directed towards these objectives. As a general matter, pursuit of these priorities should not focus federal resources in your States on

Subject: Investigations and Prosecutions in States Authorizing the Medical Use of Marijuana

individuals whose actions are in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana. For example, prosecution of individuals with cancer or other serious illnesses who use marijuana as part of a recommended treatment regimen consistent with applicable state law, or those caregivers in clear and unambiguous compliance with existing state law who provide such individuals with marijuana, is unlikely to be an efficient use of limited federal resources. On the other hand, prosecution of commercial enterprises that unlawfully market and sell marijuana for profit continues to be an enforcement priority of the Department. To be sure, claims of compliance with state or local law may mask operations inconsistent with the terms, conditions, or purposes of those laws, and federal law enforcement should not be deterred by such assertions when otherwise pursuing the Department's core enforcement priorities.

Typically, when any of the following characteristics is present, the conduct will not be in clear and unambiguous compliance with applicable state law and may indicate illegal drug trafficking activity of potential federal interest:

- unlawful possession or unlawful use of firearms;
- violence;
- sales to minors;
- financial and marketing activities inconsistent with the terms, conditions, or purposes of state law, including evidence of money laundering activity and/or financial gains or excessive amounts of cash inconsistent with purported compliance with state or local law;
- amounts of marijuana inconsistent with purported compliance with state or local law;
- illegal possession or sale of other controlled substances; or
- ties to other criminal enterprises.

Of course, no State can authorize violations of federal law, and the list of factors above is not intended to describe exhaustively when a federal prosecution may be warranted. Accordingly, in prosecutions under the Controlled Substances Act, federal prosecutors are not expected to charge, prove, or otherwise establish any state law violations. Indeed, this memorandum does not alter in any way the Department's authority to enforce federal law, including laws prohibiting the manufacture, production, distribution, possession, or use of marijuana on federal property. This guidance regarding resource allocation does not "legalize" marijuana or provide a legal defense to a violation of federal law, nor is it intended to create any privileges, benefits, or rights, substantive or procedural, enforceable by any individual, party or witness in any administrative, civil, or criminal matter. Nor does clear and unambiguous compliance with state law or the absence of one or all of the above factors create a legal defense to a violation of the Controlled Substances Act. Rather, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion.

Subject: Investigations and Prosecutions in States Authorizing the Medical Use of Marijuana

Finally, nothing herein precludes investigation or prosecution where there is a reasonable basis to believe that compliance with state law is being invoked as a pretext for the production or distribution of marijuana for purposes not authorized by state law. Nor does this guidance preclude investigation or prosecution, even when there is clear and unambiguous compliance with existing state law, in particular circumstances where investigation or prosecution otherwise serves important federal interests.

Your offices should continue to review marijuana cases for prosecution on a case-by-case basis, consistent with the guidance on resource allocation and federal priorities set forth herein, the consideration of requests for federal assistance from state and local law enforcement authorities, and the Principles of Federal Prosecution.

cc: All United States Attorneys

Lanny A. Breuer  
Assistant Attorney General  
Criminal Division

B. Todd Jones  
United States Attorney  
District of Minnesota  
Chair, Attorney General's Advisory Committee

Michele M. Leonhart  
Acting Administrator  
Drug Enforcement Administration

H. Marshall Jarrett  
Director  
Executive Office for United States Attorneys

Kevin L. Perkins  
Assistant Director  
Criminal Investigative Division  
Federal Bureau of Investigation



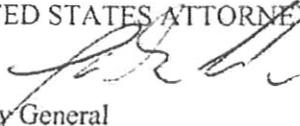
U.S. Department of Justice

Office of the Deputy Attorney General

Washington, D.C. 20530

June 29, 2011

MEMORANDUM FOR UNITED STATES ATTORNEYS

FROM: James M. Cole   
Deputy Attorney General

SUBJECT: Guidance Regarding the Ogden Memo in Jurisdictions  
Seeking to Authorize Marijuana for Medical Use

Over the last several months some of you have requested the Department's assistance in responding to inquiries from State and local governments seeking guidance about the Department's position on enforcement of the Controlled Substances Act (CSA) in jurisdictions that have under consideration, or have implemented, legislation that would sanction and regulate the commercial cultivation and distribution of marijuana purportedly for medical use. Some of these jurisdictions have considered approving the cultivation of large quantities of marijuana, or broadening the regulation and taxation of the substance. You may have seen letters responding to these inquiries by several United States Attorneys. Those letters are entirely consistent with the October 2009 memorandum issued by Deputy Attorney General David Ogden to federal prosecutors in States that have enacted laws authorizing the medical use of marijuana (the "Ogden Memo").

The Department of Justice is committed to the enforcement of the Controlled Substances Act in all States. Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large scale criminal enterprises, gangs, and cartels. The Ogden Memorandum provides guidance to you in deploying your resources to enforce the CSA as part of the exercise of the broad discretion you are given to address federal criminal matters within your districts.

A number of states have enacted some form of legislation relating to the medical use of marijuana. Accordingly, the Ogden Memo reiterated to you that prosecution of significant traffickers of illegal drugs, including marijuana, remains a core priority, but advised that it is likely not an efficient use of federal resources to focus enforcement efforts on individuals with cancer or other serious illnesses who use marijuana as part of a recommended treatment regimen consistent with applicable state law, or their caregivers. The term "caregiver" as used in the memorandum meant just that: individuals providing care to individuals with cancer or other serious illnesses, not commercial operations cultivating, selling or distributing marijuana.

The Department's view of the efficient use of limited federal resources as articulated in the Ogden Memorandum has not changed. There has, however, been an increase in the scope of

Memorandum for United States Attorneys  
Subject: Guidance Regarding the Ogden Memo in Jurisdictions  
Seeking to Authorize Marijuana for Medical Use

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commercial cultivation, sale, distribution and use of marijuana for purported medical purposes. For example, within the past 12 months, several jurisdictions have considered or enacted legislation to authorize multiple large-scale, privately-operated industrial marijuana cultivation centers. Some of these planned facilities have revenue projections of millions of dollars based on the planned cultivation of tens of thousands of cannabis plants.

The Ogden Memorandum was never intended to shield such activities from federal enforcement action and prosecution, even where those activities purport to comply with state law. Persons who are in the business of cultivating, selling or distributing marijuana, and those who knowingly facilitate such activities, are in violation of the Controlled Substances Act, regardless of state law. Consistent with resource constraints and the discretion you may exercise in your district, such persons are subject to federal enforcement action, including potential prosecution. State laws or local ordinances are not a defense to civil or criminal enforcement of federal law with respect to such conduct, including enforcement of the CSA. Those who engage in transactions involving the proceeds of such activity may also be in violation of federal money laundering statutes and other federal financial laws.

The Department of Justice is tasked with enforcing existing federal criminal laws in all states, and enforcement of the CSA has long been and remains a core priority.

cc: Lanny A. Breuer  
Assistant Attorney General, Criminal Division

B. Todd Jones  
United States Attorney  
District of Minnesota  
Chair, AGAC

Michele M. Leonhart  
Administrator  
Drug Enforcement Administration

H. Marshall Jarrett  
Director  
Executive Office for United States Attorneys

Kevin L. Perkins  
Assistant Director  
Criminal Investigative Division  
Federal Bureau of Investigations



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U.S. Department of Justice  
Drug Enforcement Administration

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8701 Morrisette Drive  
Springfield, VA 22152

JAN 17 2012

Tom Mielke  
Marc Boldt  
Steve Stuart  
Board of Clark County Commissioners  
1300 Franklin Street  
P.O. Box 5000  
Vancouver, Washington 98666-5000

SUBJECT: Application of the *Controlled Substances Act (CSA)* to the Board of Clark County Commissioners and Clark County Employees

Dear Messrs. Mielke, Boldt, and Stuart:

Thank you for your December 2, 2011 letter addressed to Attorney General Eric Holder which was referred to the Drug Enforcement Administration (DEA) for a response.

The Department of Justice has stated that Congress has determined that marijuana is a schedule I controlled substance and, as such, growing, distributing, and possessing marijuana in any capacity, other than as part of a federally authorized research program, is a violation of federal law regardless of state laws permitting such activities. This is reflected in the text of the *CSA* and the decisions of the United States Supreme Court in *United States v. Oakland Cannabis Buyers' Cooperative*, 532 U.S. 483 (2001), and *Gonzales v. Raich*, 545 U.S. 1 (2005). These federal law concepts are premised on the facts that marijuana has never been demonstrated in sound scientific studies to be safe and effective for the treatment of any disease or condition and, therefore, the Food and Drug Administration has never approved marijuana as a drug. As the Supreme Court stated, "for purposes of the Controlled Substances Act, marijuana has 'no currently accepted medical use' at all." *Oakland Cannabis Buyers' Cooperative*, 532 U.S. at 491.

In your correspondence to the Attorney General you quote from an April 14, 2011 letter written to the Honorable Christine Gregoire, Washington State Governor by the U.S. Attorneys for both the Eastern and Western Districts of Washington in which they say that "state employees who conducted activities mandated by the Washington [medical marijuana] legislative proposals would not be immune from liability under the CSA." Although that letter pertained to the

Washington state medical marijuana law and Washington state employees, the principles expressed in that letter are useful in addressing any county "medical marijuana" ordinance or provision implementing state law. As that letter indicated, anyone who knowingly carries out the marijuana activities contemplated by Washington state law, as well as anyone who facilitates such activities, or conspires to commit such violations, is subject to criminal prosecution as provided in the CSA. That same conclusion would apply with equal force to the proposed activities of the Board of Clark County Commissioners and Clark County employees.

Such persons may also be subject to money laundering statutes. In addition, the CSA provides for forfeiture of real property and other tangible property used to facilitate the commission of such crimes, as well as the forfeiture of all money derived from, or traceable to, such activity.

Thank you for your inquiry regarding this important matter.

Sincerely,



Joseph T. Rannazzisi  
Deputy Assistant Administrator  
Office of Diversion Control

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

<p><b>Agenda Item:</b> Adopt Ord. 1268 imposing interim zoning regulations on Collective Gardens (First and Final Reading).</p>	<p><b>Agenda Item #:</b> <u>Tabled</u></p> <p><b>For Agenda of:</b> <u>June 17, 2013</u></p> <p><b>Department:</b> <u>Planning</u></p> <p><b>Date Submitted:</b> <u>June 11, 2013</u></p>
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<p><b>Cost of Item:</b> <u>0</u></p> <p><b>Amount Budgeted:</b> _____</p> <p><b>Unexpended Balance:</b> _____</p>	<p><b>BARS #:</b></p> <p><b>Description:</b></p>
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**Department Supervisor Approval:** Carolyn Johnson, Community Development Planner  
The Planning Commission recommended approval of the  
**Committee Recommendation:** interim zoning ordinance on June 19, 2012.

- Agenda Item Supporting Narrative** (list attachments, supporting documents):
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

**Summary Statement:**  
 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.

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.

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

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.

## **Law Office of William J. Eling**

**9401 N.E. Covington Road, No. 102  
Vancouver, Washington 98662**

**[360] 260-1189  
[360] 213-0770 fax**

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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

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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

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 identicard, 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 (CO<sub>2</sub>, 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:

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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.