ORDINANCE NO. 1222

THE CITY OF WOODLAND, WASHINGTON

AN ORDINANCE OF THE CITY OF WOODLAND, WASHINGTON, ADOPTING A MORATORIUM ON THE ESTABLISHMENT OF COLLECTIVE GARDENS, DEFINING "COLLECTIVE GARDENS," ADOPTING FINDINGS OF FACT AND CONCLUSIONS, AND ESTABLISHING AN EFFECTIVE DATE AND EXPIRATION DATE

RECITALS

Since 1970, federal law has prohibited the manufacture and possession of marijuana, designating it a Schedule I drug. This prohibition is based on the federal government's finding that marijuana as having a "high potential for abuse, lack of any accepted medial 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;

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

The intent of Initiative 692 was to permit qualifying "patients with terminal or debilitating illnesses who, in the judgment of their physicians, would benefit from the medical use of marijuana, to not be subject to state criminal sanction, RCW 69.51A.005. However the Initiative also stated 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, as a result, "medical marijuana" does not violate state criminal law if maintained in accordance with the statute. "Medical marijuana" violates federal criminal law;

RCW 69.51A.060(1) provides that 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;

Washington's Governor, in her partial veto letter, of SB 5073, of April 29, 2011, indicated 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*, page 3;

RCW 69.51A.140 allows local jurisdictions to adopt regulations for zoning requirements, business license requirements, health and safety requirements, and business taxes, however only "so long as such requirements do not preclude the possibility of siting licensed dispensers within the jurisdiction";

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

The City of Woodland Council therefore believes that interim zoning regulations are necessary to address collective gardens and remain compliant with RCW 69.51A while the City considers the land use impacts of collective gardens, can draft regulations, can hold hearings and can adopt new regulations on the subject;

The City of Woodland Council believes this action is taken in good faith;

WHEREAS, the Act authorizes "collective gardens" which would authorize certain qualifying patients the ability to produce, grow and deliver Cannabis for medical use;

WHEREAS, the production, growth and delivery of Cannabis in collective gardens present issues of public safety for surrounding properties as well as for the property on which the collective gardens exist. Furthermore, the location of such collective gardens near schools, day care facilities and other lawful uses presents issues relating to the public welfare and the protection of minors;

WHEREAS, the City's zoning licensing, and other development regulations do not address the potential impacts from collective gardens and the City needs adequate time to consider whether such regulations should be enacted.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF WOODLAND as follows:

1. Moratorium Enacted. Pursuant to the provisions of RCW 36.70A.390, a zoning moratorium is hereby enacted in the City of Woodland prohibiting the licensing, establishment, maintenance or continuation of any medical Cannabis collective garden. A "collective garden" is an area or garden where qualifying patients engage in the production, processing, transporting and delivery of Cannabis for medical use as set forth in the Act and subject to the limitations therein.

2. Collective Gardens Prohibited. Collective gardens as defined in Section 1 are hereby designated as prohibited uses in the City of Woodland. In accordance with the provisions of RCW 35A.82.020 and WMC 5.04, no business license shall be issued to any person for collective gardens, which are hereby defined to be prohibited uses under the ordinances of the City of Woodland.

3. Referral to Planning Policy Commission. This ordinance shall be referred to the Woodland Planning Policy Commission for its review and recommendation for inclusion in the zoning ordinances of the City of Woodland.

4. Public Hearing on Interim Zoning. Pursuant to RCW 35A.63.220, the City Council shall hold a public hearing on this interim zoning action within sixty days of its adoption, or before March 17, 2012. The Council hereby schedules this hearing for March 5, 2012. At the

next regularly scheduled Council meeting immediately following this public hearing, the City Council shall adopt findings of fact on the interim zoning or cancel the interim zoning.

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

6. Findings and Conclusions Adopted. The City Council hereby adopts the recitals set forth above, as their Findings and Conclusions as required by RCW 36.70A.390.

7. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of constitutionality of any other section, sentence, clause or phrase of this Ordinance.

8. Effective Date/Termination of Moratorium. This Ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication. Unless otherwise extended by the Council, pursuant to RCW 36.70A.390, this Ordinance, and the moratorium established herein, shall expire and terminate six (6) months from its adoption on January 17, 2012.

Adopted in an open public meeting this 17th day of January, 2012.

CITY OF WOODLAND, WA

Approved:

Grover B. Laseke, Mayor

Attest:

Georgina D. Anderson, Deputy Clerk-Treasurer

Approved as to form:

William J. Eling, City Attorney

SUMMARY OF ORDINANCE NO. 1222
OF THE CITY OF WOODLAND, WASHINGTON

On January 17, 2012 the City Council of the City of Woodland, Washington, approved Ordinance No. 1222 the main point of which may be summarized by its title as follows:

AN ORDINANCE ADOPTING A MORATORIUM ON THE ESTABLISHMENT OF COLLECTIVE GARDENS, DEFINING "COLLECTIVE GARDENS", ADOPTING FINDINGS OF FACT AND CONCLUSIONS, AND ESTABLISHING AN EFFECTIVE DATE AND EXPIRATION DATE.

The full text of this Ordinance will be mailed upon request.

APPROVED by the City Council at their regular meeting of January 17, 2012.

Georgina D. Anderson

Georgina D. Anderson, Deputy Clerk-Treasurer

Published: January 25, 2012
Effective: January 30, 2012