

Grays Harbor Imposes Moratorium on Medical and Recreational Marijuana

Local News

Posted by: David Haviland

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MONTESANO, Wash. - The Grays Harbor County Commissioners yesterday adopted a moratorium on all medical and recreational marijuana land uses. Grays Harbor County Sheriff Rick Scott told the commissioners before the vote "I strongly encourage the board to pass a moratorium and put the brakes on this. Many of the cities within Grays Harbor have already passed moratoriums and so what they're doing is they're moving into the area where they can operate. So if we don't do something to put the brakes on this they're going to be popping up like espresso stands. Scott said that they know of 4 businesses currently running. The Commissioners adopted the 6-month zoning moratorium upon medical marijuana collective gardens and other establishments involved in the sale, manufacturing, distribution or use of marijuana unanimously yesterday. According to the ordinance, the existing businesses are only "grandfathered" in if they were operating within the law to begin with.

GRAYS HARBOR COUNTY ORDINANCE NO. _____

AN ORDINANCE declaring an emergency and adopting a moratorium upon medical marijuana collective gardens and other establishments involved in the sale, manufacturing, distribution or use of marijuana, and directing the setting of a public hearing. WHEREAS, E2SSB 5073 effective on July 22, 2011, amended the Medical Cannabis Act, Chapter 69.51A RCW, and authorized, at RCW 69.51A.085, the creation of and participation in "collective gardens for the purpose of producing, processing, transporting, and delivering cannabis for medical use" subject to certain conditions; and

WHEREAS, state law acknowledges the needs of persons suffering from debilitating or terminal conditions and the benefits that some qualifying patients experience from the medical use of cannabis; and WHEREAS, moratoria adopted pursuant to the authority of RCW 36.70.795 are methods by which local governments may preserve the status quo so that new plans and regulations will not be rendered moot by intervening development; and WHEREAS, RCW 69.51A.140 authorizes counties to adopt and enforce health and safety requirements related to cannabis, including medical cannabis, within their jurisdictions; and WHEREAS, Initiative 502, passed at the November 2012 General Election and effective on December 6, 2012, directs the Washington State Liquor Control Board to develop rules and regulations to determine the number of producers by county, develop licensing and other regulatory measures for producing, processing, and selling marijuana for non-medical purposes; and WHEREAS, the Washington State Liquor Control Board is developing such rules, which must be completed and implemented no later than December 1, 2013, and the County is concerned that marijuana-related land uses could become established in the County that are inconsistent with or conflict with the final Liquor Control Board rules; and WHEREAS, the County is concerned that marijuana-related land uses could become established in the County prior to the completion and enforcement of the Liquor Control Board rules that could undermine the objectives and goals the Board of Commissioners has for the County; and WHEREAS, use and delivery of marijuana is still a violation of federal law under the Controlled Substances Act; and WHEREAS, the Washington State Department of Health has confirmed that medical marijuana dispensaries are illegal under current state law; and WHEREAS, this Ordinance does not shield medical marijuana users from arrest under state or federal law; and WHEREAS, this Ordinance does not shield any establishment involved in the use, production, processing, or distribution of marijuana from any other

legal requirements; and WHEREAS, the U.S. Department of Justice has not yet announced the position of the federal government on Washington's legalization of recreational marijuana or on Washington's laws regarding medical marijuana collective gardens; and WHEREAS, this Ordinance takes no position as to whether and when any particular collective garden is operating legally; and

WHEREAS, there may already be several collective gardens currently in Grays Harbor County; and

WHEREAS, collective gardens in unincorporated Grays Harbor County may not be fully complying with state law applicable to collective gardens; and WHEREAS, the siting and location of collective gardens is a significant public safety matter, which is exemplified by Initiative 502's requirement that the Liquor Control Board's rules must determine the maximum number of retail outlets that may be licensed in any specific county, and Initiative 502's requirement that one thousand foot buffers exist between licensed marijuana retailers and any school grounds,

playground, recreation center or facility, child care center, public park, library, public transit center or any game arcade which is open to persons under aged twenty-one; and WHEREAS, based

on the County's heretofore limited experience with collective gardens, the land uses and business practices do not appear to be the same as pharmacies or retail establishments; and WHEREAS, additional time is needed to study existing and potential impacts from land uses associated with marijuana; and

WHEREAS, such land use and public safety issues include but are not limited to appropriate signage, taxes, licensing, applicable building codes, location restrictions, density, spacing requirements between marijuana-associated uses, appropriate zones for growing, manufacturing and distribution, and separation from schools and other facilities where children are present; and

WHEREAS, the County will need at least a six-month period to conduct an appropriate analysis and to develop appropriate recommendations for the Grays Harbor County Planning Commission to consider regarding the issues noted above; and

WHEREAS, the County has legitimate concerns that marijuana-associated land uses have a higher than average potential for burglary and other crimes, and that such concerns need to be evaluated in greater detail before determining appropriate land use controls; and

WHEREAS, potential impacts from medical marijuana uses include but are not limited to: conversion of residential uses into marijuana cultivation and processing facilities, removing valuable housing stock in a community; degrading neighborhood and commercial district aesthetics due to shuttered-up homes and buildings and offensive odors; increased night-time traffic; parking issues; loitering from potential purchasers looking to buy from a collective member; environmental damages from chemicals being discharged into surrounding and off-site soil and storm and sanitary sewer systems; serious risk of fire hazard due to overloaded service connections used to operate grow lights and fans; improper ventilation leading to high levels of moisture and mold; illegal structural modifications; criminal issues such as home invasions, burglaries of medical marijuana facilities, theft and property damage; and

WHEREAS, this Ordinance does not shield any individual or entity, including users, manufacturers, and deliverers of marijuana, from local, state or federal penalties and liability; and

WHEREAS, this moratorium is authorized by RCW 36.70.795 and Article 11, Section 11 of the Washington State Constitution, Now, Therefore, Be it ORDAINED by the Board of County

Commissioners of Grays Harbor County as follows: **Section 1. Moratorium.** The Grays Harbor County Board of Commissioners hereby declares a moratorium upon: A) The submission,

acceptance, processing or approval of any permit applications or licenses by or for new marijuana collective gardens as described in RCW 69.51A.085 and any other establishments involved in the sale, use, growing, manufacture or processing of marijuana, including but not limited to performance spaces, private clubs, open-to-the-public night clubs/cabarets/ taverns or similar establishments. B)

The creation by an owner or operator of any land or building of any new use of such land or buildings for the sale/ use/ growing, distribution, manufacturing, or processing of marijuana. C) Collective Gardens as described in RCW 69.51A.085 being a part of or connected to any other type of land use, including but not limited to performance spaces/ private smoking or use clubs/

open-to-the-public night clubs/ cabarets/ taverns and similar establishments. **Section 2. Effect of Moratorium.** The moratorium does not alter any requirement that existing collective gardens must comply with all applicable laws and does not impact in any way the County's authority to enforce the Grays Harbor County Code or state laws. Violations of this Ordinance are subject to the County's zoning penalties more particularly described in Chapter 17.96 of the Grays Harbor County Code and state public nuisance laws. **Section 3. Duration.** The moratorium adopted by this Ordinance is effective immediately upon adoption and shall remain in effect for six (6) months, unless subsequently extended by the Board pursuant to state law. **Section 4. Public Hearing.** Pursuant to RCW 36.70.795, a public hearing will be held by August 2, 2013. **Section 5. Ratification.** Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed. **Section 6. Severability.** The provisions of this Ordinance are declared separate and severable. If any provision of this Ordinance or its application to any person or circumstances is held invalid, the remainder of this Ordinance or application of the provision to other persons or circumstances shall be unaffected. **Section 7. Findings.** The Board of Commissioners hereby adopts the above recitals as findings of fact in support of this Ordinance. ADOPTED by the Grays Harbor County Board of County Commissioners at a regular meeting thereof this _____ day of June, 2013.

BOARD OF COMMISSIONERS GRAYS HARBOR COUNTY

Herb Welch, Chair

Wes Cormier, Commissioner

Frank Gordon, Commissioner

Donna McCallum Clerk of the Board

Deputy Prosecuting

ATTEST:

APPROVED AS TO FORM:

Attorney