

CITY OF NORTH BONNEVILLE

ORDINANCE NO. 991

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORTH BONNEVILLE, WASHINGTON, TEMPORARILY PROHIBITING THE LOCATION OF ANY FACILITIES FOR THE GROWING OR PRODUCTION, PROCESSING OR DISPENSING OF MARIJUANA PRIOR TO FURTHER STUDY AND PUBLIC ANALYSIS OF THIS ISSUE.

WHEREAS, the possession or distribution of marijuana has been and continues to be a violation of state law pursuant to Chapter 69.50 RCW, and through the federal Controlled Substances Act; and

WHEREAS, Chapter 69.51A RCW created a limited defense to marijuana charges under state, not federal, law if the person charged could demonstrate that he or she was a qualifying patient or designated provider as those terms are defined in Chapter 69.51A RCW; and

WHEREAS, in 2011, the state legislature passed Engrossed Second Substitute Senate Bill (E2SSB) 5073 making significant amendments to the medical marijuana law in Washington; and

WHEREAS, E2SSB 5073 authorizes "collective gardens" where up to ten qualifying patients may join together to produce, grow and deliver up to 45 marijuana or cannabis plants for medical use; and

WHEREAS, under E2SSB 5073 there is no limit to the number of medical marijuana collective gardens that may be located at any site nor restrictions as to where collective gardens may be located in relation to other uses; and

WHEREAS, medical marijuana collective gardens are not currently addressed in the North Bonneville Municipal Code and under Section 1102 of E2SSB 5073 cities may adopt zoning requirements for collective gardens; and

WHEREAS, unless a zoning moratorium is imposed, medical marijuana collective gardens may be located within the City of North Bonneville while the city lacks the necessary tools to ensure the location is appropriate and that the potential secondary impacts of collective gardens are minimized and mitigated; and

WHEREAS, the City Council deems it to be in the public interest to establish a zoning moratorium pending consideration of land use regulations to address medical marijuana collective gardens; and

WHEREAS, under RCW 35A.63.220 and RCW 36.70A.390 a public hearing must be held within 60 days of the passage of this Ordinance,

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

Section 1. Moratorium Enacted

Pursuant to the provisions of RCW 35A.63.220 and RCW 36.70A.390, a zoning moratorium is hereby enacted in the City of North Bonneville prohibiting the licensing, establishment, maintenance or continuation of any medical marijuana collective garden. This shall be in effect for a period of six months from the date this Ordinance is passed and shall automatically expire on that date unless extended as provided in RCW 35A.63.220 and RCW 36.70A.390, or unless terminated sooner by the City Council.

A "medical marijuana collective garden" is an area or garden where qualifying patients engage in the production, processing, transporting and delivery of marijuana for medical use as set forth in the E2SSB 5073 and subject to the limitations therein.

Section 2. Prohibited Use Declared

Medical marijuana collective gardens as defined in Section 1 are hereby designated as prohibited uses in the City of North Bonneville. In accordance with the provisions of RCW 35A.82.020 and North Bonneville Municipal Code 5.04, no business license shall be issued to any person for a collective garden, which are hereby defined to be prohibited uses under the ordinances of the City of North Bonneville.

Section 3. Public Hearing Set

As provided in RCW 35A.63.220 and RCW 36.70A.390, the City Council sets a public hearing for August 23, 2011, which begins at 6:30 p.m. or as soon thereafter as the business of the City Council shall permit in order to take public testimony and to consider adopting further findings justifying the imposition of the moratorium set forth in Section 2 above.

Section 4. Regulations to be Drafted

The Mayor is hereby authorized and directed to develop draft regulations regarding collective gardens. The regulations shall be referred to the North Bonneville Planning Commission for review and recommendation for inclusion in the North Bonneville Zoning Code.

Section 5. Severability

The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.

Section 6. Emergency Ordinance

This ordinance, passed by a majority plus one of the whole membership of the City Council as a public emergency ordinance necessary for the protection of the public

health, public safety, public property, or public peace, shall be effective immediately upon its passage.

PASSED BY THE CITY COUNCIL ON AUGUST 9, 2011.

Don Stevens, Mayor

ATTEST:

John Spencer, City Clerk