

ORDINANCE NO. 2630

AN INTERIM ORDINANCE OF THE CITY OF MOSES LAKE ADOPTING A MORATORIUM ON THE ESTABLISHMENT OF MEDICAL MARIJUANA COLLECTIVE GARDENS, DEFINING "MEDICAL MARIJUANA COLLECTIVE GARDENS"; PROVIDING FOR A PUBLIC HEARING; ESTABLISHING AN EFFECTIVE DATE, AND PROVIDING THAT THE MORATORIUM, UNLESS EXTENDED, WILL SUNSET WITHIN SIX (6) MONTHS OF THE DATE OF ADOPTION

Recitals:

1. The possession or distribution of marijuana has been and continues to be a violation of state law pursuant to Chapter 69.50 RCW (Washington's Uniform Controlled Substances Act), and federal law, through the Controlled Substances Act (VUCSA): and
2. In 1998, the voters of Washington State approved Initiative 692, now codified as Chapter 69.51A RCW, which 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 Ch. 69.51A RCW; and
3. In 2011, the state legislature passed Engrossed Second Substitute Senate Bill (E2SSB) 5073 making significant amendments to the medical marijuana law in Washington; and
4. The Governor signed the E2SSB 5073, but vetoed several portions expressing her reservations about provisions that involved state employees in activities that could be interpreted as in violation of federal laws; and
5. E2SSB 5073 became effective on July 22, 2011; and
6. E2SSB 5073 authorizes "collective gardens" where up to ten (10) qualifying patients may join together to produce, grow and deliver up to 45 marijuana or cannabis plants for medical use; and
7. 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
8. Medical marijuana collective gardens are not currently addressed in the Moses Lake Zoning Code and under Section 1102 of E2SSB 5073 cities may adopt zoning requirements for collective gardens; and
9. Unless a zoning moratorium is imposed, medical marijuana collective gardens may be located within the City of Moses Lake 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
10. 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
11. Under RCW 35A.673.220 and RCW 36.70A.390 a public hearing must be held within sixty (60) days of the passage of this ordinance.

THE CITY COUNCIL OF THE CITY OF MOSES LAKE, WASHINGTON ORDAINS AS FOLLOWS:

Section 1. The recitals set forth above are hereby adopted as the Moses Lake City Council's preliminary findings in support of the moratorium imposed by this ordinance. The Moses Lake City Council may, in its discretion, adopt additional findings at the conclusion of the public hearing held prior to considering the adoption of the ordinance.

Section 2. Pursuant to the provisions of RCW 35A.63.220, a zoning moratorium is hereby enacted in the City of Moses Lake prohibiting the licensing, establishment, maintenance or continuation of any medical marijuana collective garden. 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 3. Medical marijuana collective gardens as defined in Section 2 are hereby designated as prohibited uses in the City of Moses Lake. In accordance with the provisions of RCW 35A.82.020 and Moses Lake 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 Moses Lake.

Section 4. The moratorium set forth in this ordinance shall be in effect for a period of six (6) months from the date this ordinance is passed and shall automatically expire on that date unless extended as provided in RCW 35A.63.220 or unless terminated sooner by the Moses Lake City Council.

Section 5. The Community Development Director is hereby authorized and directed to develop draft regulations regarding collective gardens. The regulations shall be referred to the Moses Lake Planning Commission for review and recommendation for inclusion in the Moses Lake Zoning Code.

Section 6. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances is not affected.

Section 7. This ordinance shall take effect and be in force five (5) days after its passage and publication of its summary as provided by law.

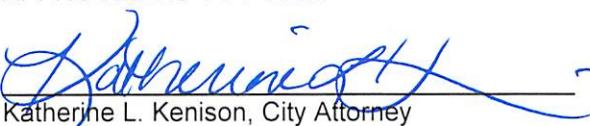
Adopted by the City Council and signed by its Mayor on September 27, 2011.

  
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Jon Lane, Mayor

ATTEST:

  
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Ronald R. Cone, Finance Director

APPROVED AS TO FORM:

  
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Katherine L. Kenison, City Attorney