

POULSBO DISTRIBUTION SCHEDULE

ORDINANCE NO. 2011-05

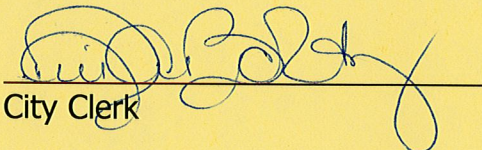
SUBJECT: Emergency Six-Month Moratorium on the Establishment of Medical Marijuana or Cannabis Dispensaries, Production Facilities, and Processing Facilities – Public Hearing Set for April 13, 2011 ~ 7:15PM

CONFORM AS TO DATES & SIGNATURES

- (X) Filed with the City Clerk: 03/16/2011
- (X) Passed by the City Council: 03/16/2011
- (X) Signature of Mayor
- (X) Signature of City Clerk
- (X) Publication: 03/18/2011
- (X) Effective: 03/16/2011
- () Recorded: N/A

DISTRIBUTED COPIES AS FOLLOWS:

- (X) NK Herald: Emailed by jb
- (X) Code Publishing - via email if in electronic format
- () City Attorney
- () Civil Service Commission and/or Sec/Chief Examiner
- () Clerk's Department:
- () City Council
- () Finance:
- (X) Posted to Library Drive and Website



City Clerk

March 18, 2011
Date

ORDINANCE NO. 2011-05

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, DECLARING AN EMERGENCY AND ADOPTING A SIX-MONTH MORATORIUM ON THE ESTABLISHMENT OF MEDICAL MARIJUANA OR CANNABIS DISPENSARIES, PRODUCTION FACILITIES, AND PROCESSING FACILITIES WITHIN THE CITY; DEFINING TERMS; SETTING A DATE FOR A PUBLIC HEARING ON THE MORATORIUM; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Initiative Measure No. 692, approved by the voters of Washington State on November 30, 1998 and now codified as Chapter 69.51A RCW, creates an affirmative defense for "qualifying patients" to the charge of possession of marijuana, and provides that such patients can, as an alternative to growing marijuana for their own use, designate a "designated provider" who can "provide" (not sell) medical marijuana to "only one patient at a time," and

WHEREAS, many jurisdictions have recently seen the establishment of "medical marijuana dispensaries" within their boundaries, which offer marijuana and marijuana products to qualified patients in exchange for "donations" and which claim to be operating as designated providers within the meaning of Chapter 69.51A RCW, and

WHEREAS, the Washington State Department of Health has opined that "the law [current Chapter 69.51A RCW] does not allow dispensaries" and that it is "not legal to buy or sell marijuana," but the Department of Health has left enforcement of the law to local officials, and

WHEREAS, litigation is pending against several jurisdictions that have decided to oppose the location of such facilities within their boundaries, and

WHEREAS, the Washington State Legislature is currently considering at least one bill that would legalize and license medical marijuana or cannabis dispensaries, production facilities, and processing facilities, and that would allow cities to enact reasonable zoning, licensing, and taxation regulations regarding these uses, and

WHEREAS, given the uncertainty of the status of dispensaries and other facilities under the current law and given the potential for new legislation on the subject, the City of Poulsbo needs time to consider zoning, licensing, and taxation regulations for marijuana or cannabis dispensaries, processing facilities, and production facilities should they be legalized by the state and the City Council has therefore determined that a zoning moratorium should be established pending local review of the issue and final action by the legislature, and

WHEREAS, unless a zoning moratorium is imposed, medical marijuana or cannabis dispensaries, production facilities, and processing facilities may seek to locate within the City of Poulsbo while the City lacks the necessary tools to ensure that the location is appropriate and that the reported secondary impacts of such facilities, which include but are not limited to, invasion of the business, burglaries, and robberies associated with the cash and drugs maintained on the site, are minimized and mitigated, now, therefore,

THE CITY COUNCIL OF THE CITY OF POULSBO, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Preliminary Findings. The recitals set forth above are hereby adopted as the Poulsbo City Council's preliminary findings in support of the moratorium imposed by this ordinance. The Poulsbo City Council may, in its discretion, adopt additional findings at the conclusion of the public hearing referenced in Section 4 below.

Section 2. Moratorium Imposed. Pursuant to the provisions of Article 11, Section 11 of the Washington State Constitution, RCW 35A.63.220, and RCW 36.70A.390, a zoning moratorium is hereby enacted prohibiting the location, establishment, licensing, maintenance, or continuation of any medical marijuana or cannabis dispensary, any medical marijuana or cannabis production facility, or any medical marijuana or cannabis processing facility within the Poulsbo city limits. No building permit, occupancy permit, or other development approval shall

be issued and no business license or (in the case of nonprofit associations) business registration shall be granted or accepted while this moratorium is in effect. As used in this ordinance, the following terms have the meanings set forth below:

A. "Marijuana" or "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. "Marijuana" or "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 therefrom, fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination. The terms "marijuana" and "cannabis" include cannabis products and useable cannabis.

B. "Medical marijuana or cannabis dispensary" means premises and equipment used to select, measure, package, label, deliver, sell, or otherwise transfer (for consideration or otherwise) marijuana or cannabis for medical use to more than one qualifying patient within any thirty (30) day period.

C. "Medical marijuana or cannabis processing facility" means premises and equipment where marijuana and cannabis products are manufactured, processed, handled and labeled for sale, delivery, or transfer (for consideration or otherwise) to a medical marijuana or cannabis dispensary or to more than one qualifying patient within any thirty (30) day period.

D. "Medical marijuana or cannabis production facility" means premises and equipment where cannabis is planted, grown, harvested, processed, stored, handled, packaged or labeled for sale, delivery, or transfer (for consideration or otherwise) to a medical marijuana

or cannabis processing facility, a medical marijuana or cannabis dispensary, or to more than one qualifying patient within any thirty (30) day period.

E. "Cannabis products" means products that contain cannabis or extracts thereof, have a measurable tetrahydrocannabinol (THC) concentration greater than three-tenths of one percent per weight or volume, 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.

F. "Useable cannabis" means dried flowers of the *Cannabis* plant having a tetrahydrocannabinol (THC) concentration greater than three-tenths of one percent per weight or volume. 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.

In addition to the above definitions and as necessary to interpret or apply this ordinance, the City hereby adopts those definitions set forth in RCW 69.51A, as the same now exists or as it may hereafter be amended.

Section 3. Effective Period for Moratorium. The moratorium set forth in this ordinance 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 the same is extended as provided in RCW 35A.63.220 and RCW 36.70A.390, or unless terminated sooner by the Poulsbo City Council.

Section 4. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the Poulsbo City Council hereby sets a public hearing for April 13, 2011 at 7:15 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 5. Referral to Staff and Planning Commission. The Poulsbo Planning Director is hereby authorized and directed to develop draft regulations regarding marijuana or cannabis dispensaries, production facilities, and processing facilities. The regulations shall be referred to the Poulsbo Planning Commission for review and recommendation for inclusion in the zoning ordinances of the City of Poulsbo.

Section 6. Transmittal to Department. Pursuant to RCW 36.70A.106, this ordinance shall be transmitted to the Washington State Department of Commerce as required by law.

Section 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 any other section, sentence, clause or phrase of this ordinance.

Section 8. Effective Date. The Poulsbo City Council hereby finds and declares that an emergency exists which necessitates that this ordinance become effective immediately in order to preserve the public health, safety and welfare, and to prevent the potential for local environmental degradation. This ordinance shall become effective immediately upon passage. The City Clerk is directed to publish a summary of this ordinance at the earliest possible publication date.

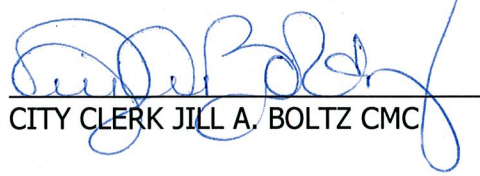
ADOPTED by the Poulsbo City Council this 16th day of March, 2011.

APPROVED:

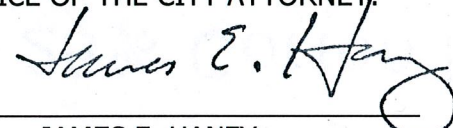


MAYOR REBECCA ERICKSON

ATTEST/AUTHENTICATED:


CITY CLERK JILL A. BOLTZ CMC

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:


BY _____
JAMES E. HANEY

FILED WITH THE CITY CLERK: 03/14/2011
PASSED BY THE CITY COUNCIL: 03/16/2011
PUBLISHED: 03/18/2011
EFFECTIVE DATE: 03/16/2011
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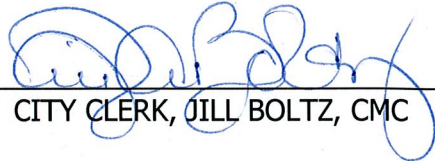
SUMMARY OF ORDINANCE NO. 2011-05
of the City of Poulsbo, Washington

On March 16, 2011, the City Council of the City of Poulsbo, Washington, approved Ordinance No. 2011-05, the main point of which may be summarized by its title as follows:

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, DECLARING AN EMERGENCY AND ADOPTING A SIX-MONTH MORATORIUM ON THE ESTABLISHMENT OF MEDICAL MARIJUANA OR CANNABIS DISPENSARIES, PRODUCTION FACILITIES, AND PROCESSING FACILITIES WITHIN THE CITY; DEFINING TERMS, SETTING A DATE FOR A PUBLIC HEARING ON THE MORATORIUM; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

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

DATED this 17th day of March, 2011.



CITY CLERK, JILL BOLTZ, CMC