

POULSBO DISTRIBUTION SCHEDULE

ORDINANCE NO. 2012-04

SUBJECT: Extending Moratorium on Establishment of Medical Cannabis Collective Gardens for an Additional Six Month Period

CONFORM AS TO DATES & SIGNATURES

- (X) Filed with the City Clerk: 02/08/2012
- (X) Passed by the City Council: 02/15/2012
- (X) Signature of Mayor
- (X) Signature of City Clerk
- (X) Publication: 02/24/2012
- (X) Effective: 02/29/2012
- () 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
- (X) Washington State Department of Commerce

Jill A. Boltz
City Clerk

February 17, 2012
Date

ORDINANCE NO. 2012-04

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, EXTENDING THE MORATORIUM ON THE ESTABLISHMENT OF MEDICAL CANNABIS COLLECTIVE GARDENS FOR AN ADDITIONAL SIX MONTH PERIOD; ADOPTING FINDINGS IN SUPPORT OF THE EXTENSION; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Ordinance 2011-14, passed by the Poulsbo City Council on September 7, 2011, imposed a six month zoning and licensing moratorium on the establishment of medical cannabis collective gardens, and

WHEREAS, at the time the moratorium was enacted, the City anticipated bringing forward a new zoning code for consideration and adoption in the last quarter of 2011, and the City planned to consolidate consideration of the medical cannabis collective gardens regulations with consideration of the zoning code in order to ensure consistency and provide for a more comprehensive discussion of such gardens in the context of the City's overall land use plans, and

WHEREAS, the zoning code has been delayed and is currently scheduled to be considered in the first half of 2012, and

WHEREAS, in addition to the delay in the zoning code, at least three other events have occurred which have hindered the City's ability to formulate permanent regulations concerning medical cannabis collective gardens:

1. The decision of the California Court of Appeals in *Pack v. City of Long Beach*, in which the court invalidated a Long Beach ordinance authorizing permits for medical cannabis dispensaries, holding that by issuing permits the city was authorizing a use that federal law prohibits and preempts, and
2. The filing of an statewide initiative to legalize and tax cannabis, and

3. The introduction of Senate Bill 6265 in the Washington State Legislature, which would specifically address a city's authority to regulate collective gardens and which would also permit other nonprofit cooperatives to be established in order to allow for broader medical cannabis use, and

WHEREAS, if the current moratorium is not extended, the City will be required to either prematurely adopt regulations which may turn out to be invalid as the result of the events described above, or to decide not to regulate and allow the establishment of medical cannabis collective gardens without proper consideration of the propriety of location and measures to minimize or mitigate the potential secondary impacts of such uses, and

WHEREAS, the Poulsbo City Council deems it to be in the public interest to extend the current moratorium on the location, establishment, licensing, and permitting of medical cannabis collective gardens, so that the legislature may complete its actions and the legal landscape of the City's regulatory authority can be more firmly established, and

WHEREAS, Article XI, Section 11 of the Washington State Constitution authorizes the Poulsbo City Council to adopt moratoria, and RCW 35A.63.220 and RCW 36.70A.390 provide that moratoria may be extended for additional six month periods as long as a public hearing is held prior to the extension and findings are made justifying the continuing imposition of the moratorium, and

WHEREAS, the Poulsbo City Council held a public hearing on the extension of the moratorium on February 15, 2012 and has decide to adopt this ordinance, NOW, THEREFORE,

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

Section 1. Findings. The findings of the Poulsbo City Council in Ordinance 2011-14 are hereby re-adopted as justification for the extension of the moratorium established by that

ordinance. The recitals set forth above are hereby adopted as additional findings of the Poulsbo City Council justifying the extension.

Section 2. Moratorium Extended. Pursuant to Article XI, Section 11 of the Washington State Constitution, RCW 35A.63.220, and RCW 36.70A.390, the moratorium enacted by Ordinance 2011-14 prohibiting the location, establishment, licensing or permitting of any medical marijuana or cannabis collective garden in the City of Poulsbo is hereby extended for six months from the effective date of this ordinance. No building permit, electrical permit, plumbing permit, occupancy permit, or any other development approval shall be issued by the City for any such collective garden and no application for any such permit shall be accepted while this extended moratorium is in effect. No business license shall be granted and no business license application shall be accepted for any such collective garden while this extended moratorium is in effect. As used in this ordinance, the terms "cannabis," "marijuana," and "collective garden" shall have the meanings given those terms in chapters 69.50 and 69.51 RCW, as amended.

Section 3. Referral to Mayor and Staff - Work Plan. The Mayor or her designee is hereby authorized and directed to develop draft regulations regarding medical cannabis collective gardens. The regulations shall be considered by the City according to the work plan prepared in conjunction with the City's soon-to-commence update of the zoning code, which will include a Public and Agency Review Timeline.

Section 4. 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 5. 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.

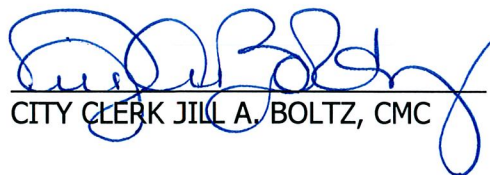
Section 6. Effective Date. This ordinance shall take effect five (5) days after passage and publication of an approved summary consisting of the title, or as otherwise provided by law.

APPROVED:



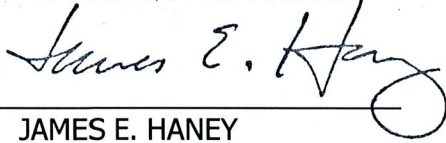
MAYOR REBECCA ERICKSON

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: 02/08/2012
PASSED BY THE CITY COUNCIL: 02/15/2012
PUBLISHED: 02/24/2012
EFFECTIVE DATE: 02/29/2012
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SUMMARY OF ORDINANCE NO. 2012-04

of the City of Poulsbo, Washington

On the 15th day of February, 2012, the City Council of the City of Poulsbo, passed Ordinance No. 2012-04. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, EXTENDING THE MORATORIUM ON THE ESTABLISHMENT OF MEDICAL CANNABIS COLLECTIVE GARDENS FOR AN ADDITIONAL SIX MONTH PERIOD; ADOPTING FINDINGS IN SUPPORT OF THE EXTENSION; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

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

DATED this 15th day of February, 2012.


CITY CLERK JILL A. BOLTZ, CMC