

ORDINANCE NUMBER 59-11

AN ORDINANCE ADOPTING A MORATORIUM ON THE ESTABLISHMENT OF COLLECTIVE GARDENS, DEFINING "COLLECTIVE GARDENS"; ESTABLISHING AN EFFECTIVE DATE, AND PROVIDING THAT THE MORATORIUM, UNLESS EXTENDED, WILL SUNSET WITHIN SIX (6) MONTHS OF THE DATE OF ADOPTION.

WHEREAS, 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 ("CSA"); and

WHEREAS, 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

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, 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

WHEREAS, E2SSB 5073 became effective on July 22, 2011; and

WHEREAS, E2SSB 5073 authorizes "collective gardens" where up to ten qualifying patients may join together to produce, grow and deliver up to forty-five (45) cannabis plants for medical use and to jointly possess up to seventy-two (72) ounces of usable cannabis; and

WHEREAS, under E2SSB 5073 there is no limit to the number of 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, collective gardens are not currently addressed in the Mason County Development Regulations and under Section 1102 of E2SSB 5073 counties may adopt zoning requirements for collective gardens; and

WHEREAS, unless a zoning moratorium is imposed, collective gardens may be located within Mason County while the County 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 Board of County Commissioners deems it to be in the public interest to establish a zoning moratorium pending consideration of land use regulations to address collective gardens; and

WHEREAS, the County established a moratorium on “collective gardens” as defined in E2SSB 5073, §403 on July 19, 2011 with a public hearing to be held within sixty (60) days (RCW 36.70A.390), and

WHEREAS, a public hearing was held on September 6, 2011 to allow for public testimony on said moratorium, and

NOW, THEREFORE, the Mason County Board of Commissioners do ordain as follows:

Section 1. The recitals set forth above are hereby adopted as the Board of County Commissioners’ preliminary findings in support of the moratorium imposed by this Ordinance. The Commissioners may, in their discretion, adopt additional findings at the conclusion of the public hearing referenced in Section 3 below.

Section 2. Pursuant to the provisions of RCW 36.70A.390, a zoning moratorium is hereby enacted in Mason County prohibiting the establishment, maintenance or continuation of any collective garden. A “collective garden” is an area or garden where qualifying patients engage in the production, processing, transporting and delivery of cannabis for medical use as set forth in the E2SSB 5073, §403 and subject to the limitations therein.

Section 3. As provided in RCW 36.70A.390, the Board of County Commissioners set a public hearing for September 6, 2011 to take public testimony and to consider adopting further findings justifying the imposition of the moratorium set forth in Section 2 above.

Section 4. 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 extended as provided in RCW 36.70A.390, or unless terminated sooner by the Mason County Board of Commissioners.


Section 5. The Mason County Department of Community Development is hereby authorized and directed to develop draft regulations regarding collective gardens. The regulations shall be referred to the Planning Advisory Commission for review and recommendation for inclusion in the Development Regulations.

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.

DATED this 6th day of September, 2011.

BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON

ATTEST:



Shannon Goudy, Clerk of the Board



Lynda Ring Erickson, Chair

APPROVED AS TO FORM:



Tim Sheldon, Commissioner



Tim Whitehead, Chief DPA



Commissioner District #3