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CLARK COUNTY
WASHINGTON

COMMUNITY PLANNING

STAFF REPORT

TO: Board of Clark County Commissioners
FROM: Oliver Orjiako, Director
DATE: October 20, 2014
SUBJECT: Ban on Medical Marijuana Collective Gardens

BACKGROUND

The Board of Clark County Commissioners adopted Ordinance 2013-07-08 on July 9, 2013. That ordinance banned the siting of medical marijuana collective gardens in the county as a land use.

In response to a query about collective gardens, it was discovered in September of 2014 that Ord. 2013-07-08 had a one-year sunset clause in it. The Board adopted an interim resolution (Resolution 2014-09-09) on September 23, 2014 to reinstate the ban.

This hearing is on the disposition of the interim resolution.

PROPOSED ACTION

The proposal is to continue the ban on medical marijuana collective gardens.



An Ordinance relating to land use and zoning, implementing zoning authority under both RCW 35.63 and the Washington Constitution temporarily prohibiting all Collective Gardens as defined in RCW 69.51A.085.

WHEREAS, in 1998, the Washington voters chose to remove criminal penalties for patients who use medical cannabis for a debilitating or terminal conditions; and

WHEREAS, for the preceding 50+ years, production, processing, sale, possession or dispensing of cannabis was a crime in the State of Washington; and

WHEREAS, in 2011, the legislature has sought to expand the opportunities to grow, produce, process and dispense medical cannabis in the State of Washington; and

WHEREAS, the U. S. Attorney's Office has notified the legislature, the governor, and the Clark County Commissioners that such state legislation will not shield Washington citizens from the potential for federal prosecution; and

WHEREAS, the production, processing or dispensing of medical marijuana is an important public issue and the unplanned location of such facilities could cause serious harm to the public generally and particularly vulnerable populations, including youth; and

WHEREAS, serious issues remain regarding locational criteria of siting facilities containing medical marijuana from churches, schools, bus stops and other public gathering sites to ensure that the public is properly protected; and

WHEREAS, the Board is concerned that action of county employees issuing permits for the commercial growth, production or distribution of Cannabis; and Collective Gardens will

make them accessories to the commission of federal crimes based on correspondence from the US Attorney's Office; and

WHEREAS, the Board finds and concludes that until the federal/state conflict is resolved the citizens of Clark County will follow federal law related to collective gardens;

WHEREAS, the Board adopted Ordinance 2013-07-08 banning collective gardens which had a sunset date of July 9, 2014; and

WHEREAS, Title 35.63 RCW and the Washington Constitution authorize the Board of County Commissioners to adopt police power ordinances to promote the public, health, safety, and welfare; and

WHEREAS, the Board has held a duly advertised public hearing in compliance with state law; now, therefore,

BE IT ORDERED, RESOLVED AND DECREED BY THE BOARD OF COUNTY COMMISSIONERS OF CLARK COUNTY, STATE OF WASHINGTON, AS FOLLOWS:

Section 1. Findings. The findings and conclusions contained in the recital clauses above are adopted in support of the Board's action in enacting this ordinance.

Section 2. Repealer. Section 18 of Ordinance 2013-07-08 is hereby repealed.

Section 3. Readoption and Incorporation by Reference. Ordinance 2013-07-08, excluding Section 18, is readopted and incorporated by reference.

Section 4. Instructions to Clerk. The Clerk to the Board shall:

1. Record a certified copy of this Ordinance with the Clark County Auditor.
2. Transmit a copy of this Ordinance and Ordinance 2013-07-08 to the Department of

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