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ORDINANCE NO. 448 AN ORDINANCE RELATING TO MARIJUANA LAND USES IN RESPONSE TO NEW STATE LAWS RELATING TO MEDICAL MARIJUANA; DECLARING AN EMERGENCY; CLARIFYING COUNTY ZONING TO ADDRESS CHANGES IN STATE LAW BY ENACTING INTERIM ZONING; ENACTING A MORATORIUM, AND SETTING SIX MONTHS AS THE EFFECTIVE PERIOD OF THE MORATORIUM AND INTERIM ZONING IN ORDER TO ALLOW TIME TO REVIEW THE EFFECT OF THE NEW STATE LAWS.

Auditor File Number(s) of document being assigned or released:

Grantor

1. **Walla Walla County Commissioners**
- 2.
- 3.

Additional names on page ____ of document.

Grantee

1. **The Public**
- 2.
- 3.

Additional names on page ____ of document.

Legal description (i.e.: lot and block or section township and range)

n/a

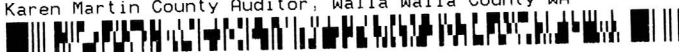
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Assessors Parcel Numbers

n/a

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**BOARD OF COUNTY COMMISSIONERS
WALLA WALLA COUNTY, WASHINGTON**

ORDINANCE NO. 448

AN ORDINANCE RELATING TO MARIJUANA LAND USES IN RESPONSE TO NEW STATE LAWS RELATING TO MEDICAL MARIJUANA; DECLARING AN EMERGENCY; CLARIFYING COUNTY ZONING TO ADDRESS CHANGES IN STATE LAW BY ENACTING INTERIM ZONING; ENACTING A MORATORIUM, AND SETTING SIX MONTHS AS THE EFFECTIVE PERIOD OF THE MORATORIUM AND INTERIM ZONING IN ORDER TO ALLOW TIME TO REVIEW THE EFFECT OF THE NEW STATE LAWS.

WHEREAS, the Washington legislature approved and the Governor signed certain sections of Second Substitute Senate Bill 5025 amending the regulations in RCW 69.51A Medical Cannabis, RCW 66.08 Liquor and Cannabis Board – General Provisions, and RCW 69.50 Uniformed Controlled Substances Act, some of which go into effect on July 1, 2016; and

WHEREAS, marijuana is currently listed as a Schedule I Controlled Substance of the Controlled Substances Act, 21 USC 812; and

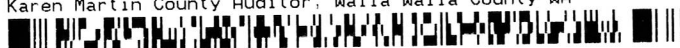
WHEREAS, I-502 allowed the Washington State Liquor Control Board to license marijuana producers “to produce marijuana for sale at wholesale to marijuana processors and other marijuana producers” (I-502, Sec. 4(1)); and

WHEREAS, I-502 allowed the Washington State Liquor Control Board to license marijuana processors to “process, package and label usable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers” (I-502, Sec. 4(2)); and

WHEREAS, I-502 allowed the Washington State Liquor Control Board to license marijuana retailers to “sell usable marijuana and marijuana-infused products at retail in retail outlets” (I-502, Sec. 4(3)); and

WHEREAS, according to the Municipal Research and Services Center (MRSC), “As of July 1, 2016, the production and marketing of medical marijuana is also incorporated into the same regulatory framework as recreational marijuana, with some variations such as the allowance of medical marijuana cooperatives”; and

WHEREAS, the provisions with the greatest implications for medical marijuana – the elimination of collective gardens and medical marijuana dispensaries, the addition of cooperatives, and more stringent recognition card requirements - go into effect on July 1 2016; and



WHEREAS, a moratorium and interim zoning will provide the County with additional time to review and amend its public health, safety and welfare requirements and zoning and land use regulations related to impacts of the revised laws and regulations related to medical marijuana; and

WHEREAS, the Liquor and Cannabis Board has adopted new rules for issuing licenses to marijuana operations which are effective State-wide beginning July 1, 2016;

NOW THEREFORE

BE IT ORDAINED, by the Walla Walla County Board of County Commissioners that:

Section I. The Board of County Commissioners Makes the Following Findings of Fact and Conclusions of Law.

A. Findings of Fact.

1. Walla Walla County Code 17.16.010, last modified in 2014, states:

The use of a property is defined by the activity for which the building or lot is intended, designed, arranged, occupied or maintained. All applicable requirements of this code, or other applicable state or federal requirements, shall govern a use located in unincorporated Walla Walla County. Any recreational marijuana land use including, but not limited to, production, processing, storage, and retail sale of recreational marijuana and recreational marijuana-derived products are prohibited land uses in unincorporated Walla Walla County.

2. Walla Walla County engaged Planning Consultant Bill Stalzer to review changes in State law relating to medical marijuana. Mr. Stalzer produced a memorandum on June 24, 2016.

3. Under the new State laws, the following individuals and entities can grow marijuana for medical purposes:

- A. Marijuana producers licensed by the Washington State Liquor and Cannabis Board ("WSLCB").
- B. Qualifying patients 21 or older enrolled in the state medical marijuana authorization database and designated providers may grow up to 15 plants and possess a combination of 48 ounces of marijuana-infused product in solid form, 3 ounces of useable marijuana, 216 ounces of marijuana-infused product in liquid form, or 21 grams of marijuana concentrates, all for their use in one housing unit provided that the activity cannot be readily seen or smelled from a public place or the private property of another housing unit.

C. Qualifying patients 21 or older not enrolled in the state medical marijuana authorization database may grow up to 4 plants and 6 ounces of usable marijuana for their use in one housing unit provided that the activity cannot be readily seen or smelled from a public place or the private property of another housing unit.

D. Cooperative members. Members of a cooperative may grow marijuana at the cooperative location in a quantity of up to the total amount of plants for which they are authorized on their recognition cards, but no more than 15 plants. They also may possess at the cooperative location up to 72 ounces of usable marijuana produced by the authorized number of plants.

Cooperative members must:

- be a qualifying patient 21 years or older or a designated provider;
- have a valid recognition card;
- participate in only one cooperative;
- not grow plants elsewhere;
- provide assistance in growing plants at the cooperative location; and
- not sell, donate, or otherwise provide marijuana or marijuana products to non-members

4. Under the new State laws, the requirements for Cooperatives are:

- a. Licensed or registered by the WSLCB
- b. Limited in number to 4 members (qualifying patients and designated providers only)
- c. Limited to one cooperative per property tax parcel
- d. Located in the domicile of one of the members
- e. Can grow up to the total number of plants authorized for the 4 members, but not exceeding 60 plants
- f. Cannot be located:
 - Within 1 mile of a marijuana retailer
 - Within the smaller of:
 - 1,000 feet of the perimeter of an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library, or any game arcade that is not restricted to persons 21 or older; or
 - the area restricted by ordinance if the city, county or town allows cooperatives
 - Where prohibited by a city, county or town zoning ordinance. RCW 69.51A.250.

5. Under the new State laws, the following entities and individuals may sell medical marijuana:

- a. An existing marijuana retailer with a medical marijuana endorsement.
- b. A new medical marijuana retailer that has a marijuana retail license, meets the locational requirements for a marijuana retailer, and has a medical marijuana endorsement.
- c. An existing medical marijuana dispensary that obtains a marijuana retail license, meets the locational requirements for a marijuana retailer, and has a medical marijuana endorsement.



6. The County needs time to study the secondary land use impacts of the revised laws and regulations related to medical marijuana, and the various development standards that should be considered to mitigate these impacts before adoption of any regulatory ordinance or issuance of any building permits for medical marijuana.

B. Conclusions of Law:

1. Moratoriums and interim zoning enacted under RCW 36.70A.390 are methods by which local governments may preserve the status quo so that new plans and regulations will not be rendered moot by intervening development.

2. A moratorium and interim zoning to preserve the status quo is necessary, until the effects of the new State laws related to medical marijuana can be reviewed, and until the County can study, draft, hold public hearings and adopt the appropriate regulations to address any new uses allowed by the revised State laws related to medical marijuana.

3. The proposed moratorium and interim zoning is consistent with the County Comprehensive Plan:

a. This Ordinance will allow the County to review which zones can support any new uses allowed by the revised State laws related to medical marijuana, ensuring that, if necessary, these uses will be located in urban areas that are able to support them (County Comprehensive Plan 5.1.1, RCW 36.70A.020(1)).

b. This Ordinance will allow the County to determine, if necessary, which types of any new uses allowed by the revised State laws related to medical marijuana should be allowed, and allow the County to determine how to locate those uses in areas where environmental impacts and other hazards can be controlled and separated from other incompatible land uses (County Comprehensive Plan Land Use Policy 25, Land Use Policy 27).

c. This Ordinance will allow the County to ensure that any new uses allowed by the revised State laws related to medical marijuana will not be sited in rural or agricultural zones, if the uses are determined to be inconsistent with a rural or agrarian atmosphere (County Wide Planning Policy 10.7).

d. This Ordinance will allow the County to review the impact that any new uses allowed by the revised State laws related to medical marijuana have on County law enforcement services, and ensure that public spending priorities for County services within rural areas are to maintain or upgrade services at rural level standards to existing, not new, development (Policy RL-13).

e. This Ordinance will allow the County to review the impact that any new uses allowed by the revised State laws related to medical marijuana may have on agriculturally-designated land, and ensure that these uses are sited in a manner that reduces conflict with productive farmland (Policy RL-43).

4. The proposed moratorium and interim zoning meets a definable public need: to maintain the status quo.

5. The proposed moratorium and interim zoning is in the long term interest of the County, as it ensures that, to the extent any new uses allowed by the new State laws are to be allowed in the unincorporated areas of Walla Walla County, the uses are sited appropriately.

Section II. The following definitions, moratorium, and interim zoning are enacted within the County in locations outside of the corporate limits of any city or town:

A. Marijuana Definitions.

1. "Marijuana" has the meaning in RCW 69.50.101 as it exists or is hereafter amended.
2. "Cooperative" means those entities authorized pursuant to RCW 69.51A.250.
3. "Marijuana processor" has the meaning in RCW 69.50.101 as it exists or is hereafter amended.
4. "Marijuana producer" has the meaning in RCW 69.50.101 as it exists or is hereafter amended.
5. "Marijuana products" has the meaning RCW 69.50.101 as it exists or is hereafter amended.
6. "Marijuana retailer" has the meaning in RCW 69.50.101 as it exists or is hereafter amended.
7. "Project permit" or "project permit application" means any land use or environmental permit or license required from Walla Walla County for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, site-specific rezones authorized by a comprehensive plan or subarea plan. For the purposes of this Ordinance, permits and licenses issued by the Walla Walla County Health Department and the Walla Walla County Public Works Department are included in this definition.

B: Moratorium and interim zoning regulation.

Cooperatives, marijuana producers, marijuana processors, marijuana retailers, and the sale of marijuana and/or marijuana products are prohibited land uses in unincorporated Walla Walla County. Any project permit or application for a structure or use/operation of property for the use by any land use described in this section shall not be accepted nor granted during the pendency of this moratorium and interim zoning Ordinance.



Section IV. Purpose. The purpose of this moratorium and interim zoning Ordinance is to allow the County adequate time to study the secondary land use impacts associated with revised laws and regulations relating to medical marijuana. The County's goal is to ultimately draft zoning and other possible regulations to address such developments and uses, to hold public hearings on such draft regulations and to adopt such regulations.

Section V. Duration of Moratorium and interim zoning. This moratorium and interim zoning Ordinance shall be in effect for six (6) months, beginning on June 30, 2016 and ending on December 30, 2016, unless an ordinance is adopted rescinding the moratorium and interim zoning. This moratorium and interim zoning may be extended by the Board of County Commissioners following a public hearing prior to such extension.

Section VI. Work Plan. During the 6-month period, the County will study the issues concerning the impacts of SSB 5025 and the revised laws and regulations related to medical marijuana.

Section VII. Declaration of Emergency. The Board of County Commissioners hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by the Board, and that the same is not subject to a referendum (RCW 36.70A.390). This Ordinance is necessary to ensure that any new uses authorized by the revised State laws, to the extent they are allowed in the County, are sited appropriately.

Section VIII. Effective Date. This Ordinance shall take effect and be in full force and effect immediately upon its adoption.

Section IX. Public Hearing. The Commissioners shall hold a public hearing on this Ordinance within the next 60 days. If necessary, the Board may adopt additional Findings of Fact.

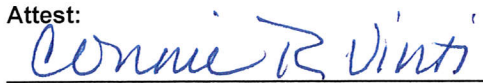
Section X. Conflict with other Walla Walla County Code Provisions. If the provisions of this Ordinance are found to be inconsistent with other provisions of the Walla Walla County Code, this Ordinance shall control.

Section XI. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this Ordinance.

Section XII. Publication. This Ordinance will be published by an approved summary consisting of the title.

PASSED by the Walla Walla County Board of County Commissioners in special session at Walla Walla, Washington, then signed by its membership and attested by its Clerk in authorization of such passage this 30th day of June, 2016.

Attest:


Connie R. Vinti, Clerk of the Board


James K. Johnson, Chairman, District 1





Perry L. Dozier
Perry L. Dozier, Commissioner, District 2

James L. Duncan
James L. Duncan, Commissioner, District 3

*Constituting the Board of County Commissioners
of Walla Walla County, Washington*

Approved as to form

Jesse D. Nolte
Jesse D. Nolte, Deputy Prosecuting Attorney