CITY OF NORTH BONNEVILLE
ORDINANCE NO. 1010

AN ORDINANCE OF THE CITY OF NORTH BONNEVILLE AMENDING NORTH BONNEVILLE MUNICIPAL CODE CHAPTERS 20.24 (C-1) COMMERCIAL ZONE AND CHAPER 5.05 MEDICAL CANNABIS COLLECTIVE GARDEN SAFETY LICENSE.

WHEREAS, Initiative Measure No. 692, approved by the voter of Washington State on November 30, 1998 and now codified as chapter 69.51A RCW, created an affirmative defense for "qualifying patients" to the charge of possession of marijuana (cannabis); and

WHEREAS, in 2011 the Washington State Legislature considered a bill (E2SSB 5073) that would have authorized the licensing of medical cannabis dispensaries, production facilities, and processing facilities; and

WHEREAS, on April 29, 2011, Governor Gregoire vetoed the portions of E2SSB 5073 that would have provided the legal basis for legalizing and licensing medical cannabis dispensaries, processing facilities and production facilities, thereby making these activities illegal; and

WHEREAS, in order to provide qualifying patients access to an adequate, safe, consistent and secure source of medical quality cannabis, E2SSB 5073 also contained a provision, now codified as RCW 69.51A.085, authorizing "collective gardens" which would authorize qualifying patients the ability to produce, grow, process, transport and deliver cannabis for medical use, and that provision was approved by Governor Gregoire, effective on July 22, 2011; and

WHEREAS, E2SSB 5073, as approved and now codified as RCW 69.51A.140 authorized cities to adopt and enforce zoning requirements regarding production and processing of medical cannabis; and

WHEREAS, medical marijuana collective gardens were addressed in the North Bonneville Municipal Code via ordinance 1009; and

WHEREAS, the City Council deems it to be in the public interest to amend the codes addressed in ordinance 1009 to restrict signage on medical cannabis garden buildings, to ensure full cost recovery for the licensing of such gardens, and to ensure compliance with city and state laws; and

WHEREAS, nothing in this Ordinance is intended nor shall be construed to authorize or approve of any violation of federal or state law;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BONNEVILLE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. <u>Amending Section 20.24.010 Permitted Uses</u>

Section 20.24.010, "Permitted Uses" is hereby amended as follows:

20.24.010 Permitted uses.

Uses that are permitted as a matter of right:

A. General commercial establishments, including but not limited to, restaurants, motels, cafes, auto parts stores, retail stores and self-storage facilities;

B. Automotive related establishments including service stations, sales and service of automobiles, trucks, recreational vehicles, motorcycles, and pleasure boats;

C. Private clubs and lodges;

D. Private dwellings including balconies, out-side courts or patios as an integral part of a commercial or retail structure with the following conditions:

1. The dwelling units shall have a minimum living area of nine hundred (900) square feet.

2. Residential uses shall not be more than twenty-five (25) percent of the total square footage of the structure(s).

3. The design of commercial establishments which include dwellings shall be a matter subject to review and approval by the Planning Commission. The Planning Commission specifically reserves the right to disapprove any development of dwellings in conjunction with commercial development on the basis of health, safety and welfare of potential occupants.

E. Medical Cannabis Collective Gardens. All Medical Cannabis Collective Gardens shall meet the following development standards:

1. The definitions set forth in RCW 69.51A.010 and NBMC 20.12 shall apply.

2. Location:

a. No more than one collective garden shall be located on a single parcel.

b. No more than one collective garden shall be located in a single structure.

c. Shall be located fully within a permanent structure designed to comply with the current City site and building codes and constructed under a building permit from the City regardless of the size or configuration of the structure.

d. Shall not be located in a mobile structure.

e. Shall not be located on a parcel that contains a private dwelling or residential use.

f. No collective garden shall be located within 500 feet of the following. The measurement shall be taken in a straight line from the property boundary to property boundary.

i. Another existing collective garden; or

ii. Public Park; or

iii. Community Center; or

iv. Elementary or secondary school (public or private); or

v. Day care center.

3. No production, processing or delivery of cannabis may be visible to the public nor may it be visible through windows.

4. A collective garden must meet all requirements under E2SSB 5073, including but not limited, to limitations on number of members, number of plants,

amount of usable cannabis on site, maintenance of each member's valid documentation of qualifying patient status.

5. All fertilizers, chemicals, gases and hazardous materials shall be handled in compliance with all applicable local, state and federal regulations. No fertilizers, chemicals, gases or hazardous materials shall be allowed to enter a sewer or stormwater sewer system nor be released into the atmosphere outside of the structure where the garden is located.

6. No odors shall be allowed to migrate beyond the interior portion of the structure where the garden is located.

7. There shall be no exterior signage relating to the collective garden.

8. A Medical Cannabis Collective Garden Safety License pursuant to Chapter 5.05 NBMC shall be obtained prior to the start of operations of the collective garden.

Section 3. Creating Chapter 5.05 Medical Cannabis Collective Garden Safety License

Chapter 5.05, "Medical Cannabis Collective Garden Safety License" is hereby amended as follows:

Chapter 5.05
Medical Cannabis Collective Garden Safety License.

Sections:

5.05.010 Purpose
5.05.020 License required
5.05.030 Procedure
5.05.035 Compliance
5.05.040 Renewal
5.05.050 Appeal and hearing

5.05.010 Purpose

The medical cannabis collective garden safety license is to ensure the garden is operated in a manner that protects the public's safety, health and general welfare and located in a structure that can safely accommodate the use and that has adequate mechanical systems and utilities for use. Issuance of the license shall not be construed to authorize, permit or approve any violation of federal or state law.

5.05.020 License required

A. A Collective Garden Safety License shall be obtained prior to operation of any medical cannabis collective garden.

B. The license must be on display on the premises at all times.

5.05.030 Procedure

A. Collective Garden Safety License applications shall be submitted to the city accompanied by the license fee established by City Council resolution. The applicant must also pay to the city all reasonable expenses associated with the review of an application, including legal and consulting fees. Such costs shall be paid to the city prior to the approval of an application.

B. Issuance of the license shall occur only after an inspection of the site by representatives of the City of North Bonneville Planning, Building and Fire Departments and verification that all of the requirements of chapter 20.24 NBMC have been complied with.

C. If more than one site inspection is required to obtain approval, an additional inspection fee, as established by City Council resolution, shall be charged and paid before a license can be issued.

D. If all requirements for approval are satisfied, the license shall be issued by the city prior to start of operations.

5.05.035 Compliance

The city reserves the right to inspect the premises to insure compliance with all applicable laws, codes and regulations. In the event a violation of Title 69 of the Revised Code of Washington is observed, the inspecting authority shall notify the law enforcement provider for the city.

In addition to possible penalties under chapter 5.05.060, violating or failing to comply with any of the provisions of this chapter or chapter 20.24 NBMC shall cause the Collective Garden Safety License to be revoked.

5.05.040 Renewal

The Collective Garden Safety License shall be renewed annually. License renewal applications shall be processed as follows:

A. The license renewal fee, as established by City Council resolution, shall be submitted with the license renewal application to the city.

B. License renewal applications shall only be approved following a site inspection and verification that all City requirements for a medical cannabis collective garden have been met.

C. If more than one site inspection is required to obtain approval, an additional inspection fee, as established by City Council resolution, shall be charged and paid before a license can be approved and issued.

5.05.050 Appeal and hearing

Any person aggrieved by the action of the city in denying, refusing to renew, or revoking any license under this chapter shall have the right to appeal such action following the procedure set forth in NBMC 5.04.070.

5.05.060 Violation - penalty

Any person violating or failing to comply with any of the provisions of this chapter, upon conviction thereof, shall be punishable by a fine in accordance with Section 7.01.020(F) of this code.

Section 4. <u>Severability</u>.
If any section, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 5. <u>Effective Date and Publication.</u>
This Ordinance shall be effective five days after publication of the Ordinance, or a summary thereof consisting of its title, in the official newspaper of the City.

PASSED BY THE CITY COUNCIL ON August 14th, 2012.

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Don Stevens, Mayor

ATTEST:

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John Spencer, City Clerk

APPROVED AS TO FORM:

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Ken Woodrich, City Attorney