# CITY OF BUCKLEY, WASHINGTON

## ORDINANCE NO. 04-14

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BUCKLEY, PIERCE COUNTY, WASHINGTON, ADOPTING A 90 DAY EXTENSTION OF A MORATORIUM FOR THE ESTABLISHMENT, LOCATION, OPERATION, LICENSING, PERMITTING, MAINTENANCE OR CONTINUATION OF MEDICAL MARIJUANA COLLECTIVE GARDENS OR MEDICAL MARIJUANA DISPENSARIES, AND FIXING A TIME WHEN THE SAME SHALL BE EFFECTIVE.**

**WHEREAS,** on May 8, 2012, the Buckley City Council adopted Buckley Ordinance No. 06-12, a six month moratorium on the establishment, location, operation, licensing, permitting, maintenance or continuation of medical marijuana collective gardens or medical marijuana dispensaries, and

**WHEREAS**, on October 23, 2012, the Buckley City Council adopted Buckley Ordinance No. 10-12, a six-month extension of Ordinance No. 06-12, and

**WHEREAS**, on April 23, 2013, the Buckley City Council adopted Buckley Ordinance No. 3-13, another six month extension of Ordinance No. 06-12, and

**WHEREAS,** on October 8, 2013, the Buckley City Council adopted Buckley Ordinance No. 15-13, another six month extension of Ordinance No. 06-12, and

**WHEREAS,** the purpose of the moratorium is to provide time for the City to determine how to accommodate changes in state medical marijuana law into its zoning regulations, and

**WHEREAS,** the legal status of medical marijuana in Washington State is still in a state of flux; most notably I-502, an initiative which seeks to legalize recreational marijuana to a limited extent, was approved by the voters in the November 2012 general election,

**WHEREAS**, through the adoption of I-502 Washington State now has a comprehensive set of regulations and licensing requirements for recreational marijuana, but very few regulations applicable to medical marijuana, and

**WHEREAS**, a significant amount of pressure is being placed upon the Washington State Legislature to adopt regulations for medical marijuana to make its regulation and licensing more consistent with recreational marijuana, and

**WHEREAS,** this pressure includes correspondence from the US Department of Justice, who have advised that they will not make enforcement against state authorized medical marijuana operations a priority if the state legislature adopts some comprehensive medical marijuana legislation, and

**WHEREAS,** the Buckley City Council does not wish to regulate medical marijuana only to find that its regulations are inconsistent with those adopted by the state legislature, and

**WHEREAS,** state licensing of recreational marijuana goes a long way in addressing its adverse effects and the City would like to have an opportunity to see what the state legislature adopts for medical marijuana to fully assess whether and to what extent medical marijuana as regulated by the state should be allowed within the City of Buckley, and

**WHEREAS,** the prevalent interpretation of the state's medical marijuana laws is that medical marijuana dispensaries are not authorized under existing medical marijuana laws such that this moratorium only affects the state statutory right to establish medical marijuana collective gardens, and

**WHEREAS**, the burden placed upon persons wishing to establish medical marijuana collectives by this moratorium is modest given that the collectives would still violate federal law and could be terminated by federal authorities at any time, and

**WHEREAS**, pursuant to RCW 35A.63.220, a City may adopt a six month extension of a zoning moratorium, provided that the City holds a public hearing on and adopts findings of fact related to the proposed moratorium prior to the expiration of the moratorium, and

**WHEREAS,** the City Council would like to adopt another 90 day extension in hopes that the legislature will address medical marijuana in its 2015 session, and

**WHEREAS,** if the legislature does adopt legislation regulating medical marijuana, the Planning Commission is directed to consider that regulation and recommend a medical marijuana ordinance that is consistent with that state law and the public health, safety and welfare of the City of Buckley community, and

**WHEREAS**, the continued imposition of a moratorium on medical marijuana is consistent with the City Council's authorization of recreational marijuana since recreational marijuana is subject to comprehensive state regulation, oversight and enforcement while medical marijuana is not,

NOW THEREFORE THE CITY OF BUCKLEY, PIERCE COUNTY, DOES ORDAIN AS FOLLOWS:

**Section 1.** That the Recitals above, as well as those in Ordinance No. 06-12, are hereby adopted by reference as the City Council's findings of fact, as if fully set forth herein. The City Council may, in its discretion, modify and/or adopt additional findings of fact at the conclusion of the public hearing set by this ordinance.

**Section 2.** That pursuant to the provisions of RCW 35A.63.220, the City Council adopts a 90 day extension to the medical marijuana moratorium initially adopted in Buckley Ordinance No. 06-12.

**Section 3.** If any provision of this ordinance is held invalid, such invalidity shall not affect any other provision, or the applications thereof, which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are to be declared severable.

**Section 4.** This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

Introduced, passed, and approved by the Buckley City Council on April 22, 2014.

Mayor Pat Johnson

Attest:

Joanne Starr, City Clerk

APPROVED AS TO FORM:

Phil Olbrechts, City Attorney

**PUBLISHED:** April 30, 2014

**EFFECTIVE:** May 5, 2014