CITY OF BUCKLEY, WASHINGTON

ORDINANCE NO. 06-14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BUCKLEY, PIERCE COUNTY, WASHINGTON, ADOPTING A SIX MONTH EXTENSION 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, on April 22, 2014, the Buckley City Council adopted Buckley Ordinance No. 04-14, a 90 day extension of Ordinance No. 06-12, 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, the Buckley City Council does not want to commit resources to the licensing and oversight of medical marijuana if the state will assume that responsibility once the state legislature finally addresses the issue, 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, despite the fact that medical marijuana dispensaries are probably not authorized by current medical marijuana legislation, medical marijuana dispensaries often attempt to legally justify themselves as collective gardens, which means that if collective gardens are authorized in Buckley this will facilitate the establishment of medical marijuana dispensaries within Buckley with tenuous legal standing, 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 six month 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 six month 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 July 22, 2014.

Pat Johnson

Mayor Pat Johnson

Attest:

Joanne Starr

Joanne Starr, City Clerk

APPROVED AS TO FORM:

Phil Olbrechts, City Attorney

PUBLISHED: July30, 2014

EFFECTIVE: August 4, 2014