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**ORDINANCE NO. 832**

AN ORDINANCE OF THE CITY OF CARNATION, WASHINGTON, ADOPTED PURSUANT TO ARTICLE 11, SECTION 11 OF THE WASHINGTON CONSTITUTION, RCW 35A.63.220 AND RCW 36.70A.390; IMPOSING A MORATORIUM UPON THE CITY'S RECEIPT AND PROCESSING OF LAND USE AND BUSINESS LICENSE APPLICATIONS FOR MARIJUANA-RELATED USES; ADOPTING AN INTERIM ZONING REGULATION PROHIBITING MEDICAL CANNABIS COLLECTIVE GARDENS IN ALL ZONING DISTRICTS OF THE CITY; DIRECTING THE CITY CLERK TO SET A PUBLIC HEARING DATE; ENTERING PRELIMINARY LEGISLATIVE FINDINGS; DECLARING AN EMERGENCY; AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE.

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WHEREAS, recent amendments to Chapter 69.51A RCW, relating to the medical use of cannabis, have expanded the scope of certain activities involving the use of cannabis for medical purposes that are permitted under state law; and

WHEREAS, RCW 69.51A.085 allows "qualifying patients" to create and participate in "collective gardens" for the purpose of producing, processing, transporting, and delivering cannabis for medical use, subject to certain conditions; and

WHEREAS, RCW 69.51A.140 delegates authority to cities and towns to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements, and business taxes as exercises of the City's police power; and

WHEREAS, the Carnation City Council understands that approved medical uses of cannabis may provide relief to patients suffering from debilitating or terminal conditions, but potential secondary impacts from the establishment of facilities for the growth, production, and processing of medical cannabis are not appropriate for any zoning designation within the City; and

WHEREAS, the City Council further understands that while the medical benefits of cannabis have been recognized by the state legislature, cannabis, also known as marijuana, remains a Schedule I controlled substance under the federal Controlled Substances Act (CSA), and possession and use of cannabis is still a violation of federal law. The City Council wishes to exercise the authority granted pursuant to state law in order to clarify that the establishment of a collective garden will be deemed to be a violation of city zoning ordinances, but the City Council expressly disclaims any intent to exercise authority over collective gardens in a manner that would directly conflict with the CSA; and

WHEREAS, Initiative 502 directs the State Liquor Control Board to develop rules and regulations to:

1. Determine the number of producers, processors and retailers of marijuana by county;
2. Develop licensing and other regulatory measures;
3. Issue licenses to producers, processors, and retailers at locations which comply with the Initiative's distancing requirements prohibiting such uses within one thousand feet of schools and other designated public facilities; and
4. Establish a process for municipalities to comment prior to the issuance of such licenses.

WHEREAS, while the production, processing, and retailing of marijuana remains in violation of the federal CSA, the City Council wishes to acknowledge the will of Washington voters and the authority exercised by the state of Washington and the State Liquor Control Board (SLCB) to license such facilities, leaving all issues relating to the legality, licensing, siting and permitting of such facilities to be determined by the federal and state governments in the exercise of their lawful authority, as finally determined by a court of appropriate jurisdiction; and

WHEREAS, the SLCB has recently issued draft regulations and licensing rules for public comment, and the City Council desires to impose a local moratorium on marijuana-related land uses until the SLCB's permanent licensing and regulatory framework has been established; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF CARNATION, WASHINGTON, DO  
ORDAIN AS FOLLOWS:

Section 1. Preliminary Findings. The City Council hereby adopts the above recitals, together with the content of the staff report/agenda bill dated June 18, 2013, as preliminary findings in support of this ordinance. The City Council also finds that adoption of this ordinance is necessary to ensure that applicants do not vest to the body of local regulations that would otherwise be in effect. As such, a public emergency exists requiring that this ordinance take effect immediately upon passage.

Section 2. Moratorium Imposed. There is hereby imposed a moratorium upon the City's acceptance and processing of any land use or business license application for all marijuana-related uses. Without limitation of the foregoing, the moratorium imposed under this section expressly encompasses: (i) Marijuana processors, as defined by Chapter 69.50 RCW; (ii)

marijuana producers, as defined by Chapter 69.50 RCW; and (iii) marijuana retailers, as defined by Chapter 69.50 RCW.

Section 3. Interim Zoning Regulation Established. As an interim zoning regulation pursuant to RCW 36.70A.390 and RCW 35A.63.220, Title 15 of the Carnation Municipal Code is hereby amended by the addition of a new Chapter 15.110 CMC Marijuana Related Uses to read as follows:

**Chapter 15.110**  
**MARIJUANA RELATED USES**

- 15.110.010 Collective gardens.**  
**15.110.020 Medical cannabis collective gardens.**

**15.110.010 Collective gardens.**

“Collective garden” means the growing, production, processing, transportation, and delivery of cannabis, by qualifying patients for medical use, as set forth in Chapter 69.51A RCW, and subject to the following conditions:

A. A collective garden may contain no more than fifteen plants per patient up to a total of forty-five plants;

B. A collective garden may contain no more than twenty-four ounces of usable cannabis per patient up to a total of seventy-two ounces of usable cannabis;

C. A copy of each qualifying patient’s valid documentation, including a copy of the patient’s proof of identity, must be available at all times on the premises of the collective garden;

D. No usable cannabis from the collective garden is delivered to anyone other than one of the qualifying patients participating in the collective garden;

E. A collective garden may contain separate areas for growing, processing, and delivering to its qualified patients, provided that these separate areas must be physically part of the same premises, and located on the same parcel or lot. A location utilized solely for the purpose of distributing cannabis shall not be considered a collective garden; and

F. No more than one collective garden may be established on a single tax parcel.

**15.110.020 Medical cannabis collective gardens.**

“Collective gardens” as defined in CMC 15.110.010 are prohibited in the following zoning districts:

- A. All residential zones, including without limitation the R2.5, R3, R4, R6, R12, R24 and RMHP zoning districts;
- B. All commercial zones, including without limitation the CBD, MU, HC, AGI and SC zoning districts;
- C. All light industrial/manufacturing zones, including without limitation the LI/M zoning district;
- D. All public zones, including without limitation the PU zoning district;
- E. All parks and recreation zones, including without limitation the P/R zoning district; and
- F. Any new zoning district established after June 18, 2013.

In addition to any other applicable remedy and/or penalty, any violation of this section is declared to be a public nuisance per se, and may be abated by the city attorney under applicable provisions of this code and/or state law, including without limitation the provisions of Chapter 8.26 CMC.

Section 4. Public Hearing. The City Clerk is hereby authorized and directed to schedule a public hearing on the moratorium and interim zoning regulation set forth in this ordinance and to provide notice of said hearing in accordance with applicable standards and procedures. Said hearing shall be held no later than 60 days after the date of adoption hereof. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council may adopt additional legislative findings in support of this ordinance at the conclusion of said hearing.

Section 5. Severability. If any section, sentence, clause or phrase of this ordinance should 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 6. Declaration of Emergency; Effective Date; Sunset. Based upon the recitals and findings set forth above, the City Council hereby declares a public emergency requiring this ordinance to take effect immediately. This ordinance shall accordingly be in full force and effect immediately upon adoption, and shall remain effective for a period of six months unless terminated earlier or subsequently extended by the City Council. PROVIDED, that the City Council may, in its sole discretion, renew the moratorium and/or the interim zoning regulation set forth herein for one or more six month periods in accordance with state law.

APPROVED by the Carnation City Council this 18th day of June, 2013.

  
MAYOR, JIM BERGER

ATTEST/AUTHENTICATED:

  
CITY CLERK, MARY MADOLE

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY   
J. ZACHARY LELL

FILED WITH THE CITY CLERK: ..... 05/23/2013  
PASSED BY THE CITY COUNCIL: .... 06/18/2013  
PUBLISHED: ..... 06/26/2013  
EFFECTIVE DATE:..... 06/18/2013  
ORDINANCE NO. .... 832