

ORDINANCE NO. 2698

AN ORDINANCE related to land use and zoning, adopting a moratorium on the establishment, location, operation, maintenance or continuation of marijuana retail sales facilities, processing facilities, manufacturing facilities, and growing facilities asserted to be authorized or actually authorized under Washington Initiative Measure No. 502, or proposed Washington Administrative Code Chapter 314-55, or any other laws of the state of Washington; and providing for an immediate effective date

WHEREAS, Washington Initiative Measure No. 502, herein after "I-502," approved by the voters of Washington State on November 6, 2012, provides for private recreational marijuana use by persons over 21 years of age, subject to state licensing and regulation of marijuana production, processing and retail sales facilities and requires the Washington State Liquor Control Board, herein after "LCB," to adopt procedures and criteria by December 1, 2013 for issuing licenses to produce, process and sell marijuana provided they are located at least 1000 feet from the nearest schools, playgrounds, day care facilities, arcades, public parks, public libraries, recreational centers, and transit centers; and

WHEREAS, pursuant to I-502, on September 4, 2013, the LCB issued revised proposed administrative rules under WAC 314-55, and established the maximum number of retail licenses that may be issued for Washington cities and counties, including a maximum total of 1 retail licenses within the City of Camas; and

WHEREAS, further pursuant to I-502, WAC 314-55 is scheduled to be finalized October 16, 2013 and become effective on November 16, 2013 with applications for marijuana production, processing and retail facilities accepted by the LCB beginning November 18, 2013; and

WHEREAS, the City previously adopted a moratorium to consider the issue on November 4, 2013, but requires additional time to consider the various issues associated with application of the new laws associated with recreational marijuana use and land use; and

WHEREAS, marijuana uses and activities authorized under I-502 remain expressly prohibited by federal law, although under a guidance memo issued to U.S. Attorneys on August 29, 2013, the U.S. Department of Justice indicated they will not challenge the legality of I-502 if the state law and regulations promulgated there under meet certain specified federal concerns; and

WHEREAS, previously in a letter dated January 17, 2012, the U.S. Department of Justice, Drug Enforcement Agency, provided that anyone who knowingly carries out the medical

marijuana activities contemplated in Washington, as well as anyone who facilitates such activities could be subject to criminal prosecution; and

WHEREAS, proposed guidance for implementing I-502 under WAC 314-55-020(11) states: "The issuance or approval of a license shall not be construed as a license for, or an approval of, any violations of local rules or ordinances, including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements;" and

WHEREAS, the Camas City Council acknowledges the will of Washington Voters in passing I-502, recognizes that and that the majority of Camas Voters voted against the passage of I-502, and also recognizes that marijuana production, processing and retail sales still remain illegal under federal law; and

WHEREAS, additional time is needed to review and determine the local implications of state rules, to assess impacts and potential liabilities under federal law, and to determine an appropriate regulatory framework under these laws; and

WHEREAS, since the initial moratorium was passed by City Council, the Washington State Attorney General's Office has provided a non-binding opinion that local governments are not preempted by state law from banning the location of a Washington State Liquor Control Board licensed marijuana producer, processor, or retailer within their jurisdiction, and that local governments may establish land use regulations (in excess of the Initiative 502 buffer and other Liquor Control Board requirements) or business license requirements in a fashion that makes it impracticable for a licensed marijuana business to locate within their jurisdiction; and

WHEREAS, the City must ensure that any proposed locations for these operations are appropriate and that potential secondary impacts are minimized and mitigated; and

WHEREAS, the City desires to further research the associated costs of implementation of such laws; and

WHEREAS, the City desires additional public comment on the topic, and intends to permit for additional community outreach, work sessions, and public hearings, relating to the development of regulations for marijuana production, processing, manufacture, and retail sales facilities; and

WHEREAS, the City Council deems it to be in the public interest to establish a zoning moratorium on marijuana retail facilities, marijuana growing facilities, marijuana manufacturing facilities, and marijuana processing facilities; and

WHEREAS, the City Council has considered and approves the attached work plan; and

WHEREAS, while the City Council determines that a moratorium is necessary for reasons stated herein, the Council understands the desires of those wishing to move forward with implementing 1-502. Nevertheless, given the complex and evolving legal and regulatory framework surrounding the production and retail sale of marijuana, these measures are necessary until the Council can adequately and appropriately address the issues described herein; and

WHEREAS, pursuant to WAC 197-11-880, the adoption of this ordinance is exempt from the requirements of a threshold determination under the State Environmental Policy Act ("SEPA"); and

WHEREAS, the City Council finds that the regulatory requirements established by this ordinance are necessary for the immediate preservation of the public peace, health and safety and for the immediate support of city government and its existing public institutions,

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF CAMAS:

Section 1. The City Council adopts the foregoing recital clauses herein as findings in support of the adoption of the moratorium provided by this ordinance.

Section 2. Pursuant to the provisions of RCW 36.70A.390 and RCW 35.63.200, a zoning moratorium is hereby enacted prohibiting until October 21, 2014 within the City of Camas, the application for and the licensing, establishment, location, operation, maintenance or continuation of any marijuana retail sales use, growing use, manufacturing use, or processing use, facility use associated with Marijuana pursuant to Washington Initiative Measure No. 502, WAC 314-55 or other state law.

Section 3. Work Plan. The following work plan includes target dates, but it is the intent for staff to have some flexibility in scheduling to accommodate for quorums, workloads, and notice requirement. The City Council moratorium hearing will occur April 7, 2014; a public hearing to hear from citizens on the record regarding allowing the retail sale, growing, harvesting, and processing of marijuana will occur on May 5, 2014; staff will prepare of list of options based upon the testimony by May 19, 2014; City Council will provide direction to staff on the options by June 2, 2014; the Planning Commission will hold a workshop on the options on June 17, 2014; staff will draft a report and amendments available by July 8, 2014; the Planning Commission will conduct a hearing on July 15, 2014; City Council will set the hearing date on August 4, 2014; and the City Council hearing will occur on September 15, 2014; Ordinance Adoption will occur October 6, 2014.

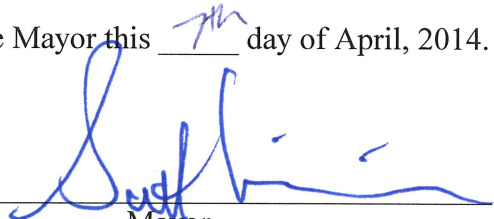
Section 4. Effective Date. This Ordinance is designated as a public emergency ordinance necessary for the protection of public health, public safety, public property or public

peace, and shall be effective upon adoption, provided that it is passed by majority plus one of the whole membership of the City Council.

Section 5. Severability. If any clause, sentence, paragraph, section, or part of this ordinance or the application thereof to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not effect or invalidate the remainder or any parts thereof to any person or circumstances and to this end, the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

PASSED BY the Council and APPROVED by the Mayor this 7th day of April, 2014.

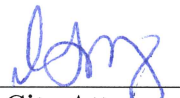
SIGNED: _____


Mayor

ATTEST: _____


Clerk

APPROVED as to form:



City Attorney