

ORDINANCE NO. 2712

AN ORDINANCE amending Camas Municipal Code Sections 18.03.030 and 18.07.030 by adopting land use and zoning regulations, and establishing prohibitions on the location of marijuana-related facilities.

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 license within the City of Camas; and

WHEREAS, further pursuant to I-502, WAC 314-55 was 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 adopted a six month moratorium to consider the issues relating to the establishment of I-502 uses on November 4, 2013; 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 meet certain specified federal concerns; and

WHEREAS, a letter dated January 17, 2012, from the U.S. Department of Justice, Drug Enforcement Agency, providing 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, was subsequently clarified; 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, but recognizes that the majority of Camas Voters voted against the passage of I-502; and

WHEREAS, 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 police powers expressed in the Washington State Constitution article XI provides: "[a]ny county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws"; and

WHEREAS, the nonbinding opinion issued by the Washington State Attorney General's Office noted: "I-502 does not express any indication that the state licensing and operating systems preempts the field of marijuana regulations"; and

WHEREAS, on April 7th, 2014, the City Council held a public hearing and established an additional six month moratorium on the establishment of I-502 uses together with a work program; and

WHEREAS, on May 19, 2014, the City Council held a public hearing to obtain comment from the public regarding the City's interest in regulating I-502 licensed facilities; and

WHEREAS, on August 18, 2014, City Council directed Staff to prepare amendments to the Use Authorization Tables of the Camas Zoning Code (CMC 18.07.030) which prohibit marijuana processors and producers from all zones within the City of Camas and prohibit marijuana retailers from all zones within the City of Camas together with a sunset period, with the intent of the sunset period to establish a timeline in which the subject of prohibiting marijuana retailers would be re-evaluated through a hearing process or expire, and Council directed the draft amendments be considered first in a public hearing before the Planning Commission; and

WHEREAS, on August 29, 2014, Pierce County Superior Court Judge Ronald Culpepper ruled that the City of Fife's ordinance banning state-licensed marijuana businesses is not pre-empted by I-502 or other state law; and

WHEREAS, the City of Camas issued a State Environmental Policy Act Determination of Non Significance regarding the changes proposed on September 9, 2014; and

WHEREAS, the City issued a Notice of Public Hearing and held a Public Hearing on September 16, 2014, before the Planning Commission to consider the proposed code amendments; and

WHEREAS, the City issued Notice of Public Hearing and held a Public Hearing to review the recommendations of the Planning Commission;

**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 this ordinance adopting land use regulation and zoning regulation relating to

marijuana-related facilities, and establishing prohibitions on the location of marijuana-related facilities.

Section 2. The City Council amends the Camas Municipal Code (CMC) as follows.

Additions to the CMC are underlined.

Amend CMC 18.03.030 Definitions for land uses by adding:

“Marijuana processor” means a facility licensed by the Washington Liquor control Board to transform marijuana into usable marijuana and marijuana-infused products into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell usable marijuana and marijuana-infused products at wholesale to marijuana retailers. Processors are classified as follows:

- Processor I, a facility limited to drying, curing, trimming, and packaging; and
- Processor II, a facility that extracts concentrates, infuses products, or involves mechanical and/or Chemical processing in addition to drying, curing, trimming, and packaging.

“Marijuana producer” means a facility licensed by the Washington State Liquor Control Board for the growing and Sale at wholesale of marijuana to marijuana processors and other marijuana producers.

“Marijuana retailer” means a facility licensed by the Washington State Liquor Control Board for the sale to consumers of usable marijuana and marijuana-infused products.

Amend CMC 18.07.030 Table 1 by adding:

**18.07.030 Table 1—Commercial and industrial land uses.**

KEY:

- P = Permitted Use
- C = Conditional Use
- X = Prohibited Use
- T = Temporary Use

Zoning Districts	NC	DC	CC	RC	MX	BP	LJ/BP	LJ	HI
<b>Commercial Uses</b>									
Machine shop <sup>6</sup>	X	X	C	C	C	C	P <sup>5</sup>	C	P
<u>Marijuana processor</u>	X	X	X	X	X	X	X	X	X
<u>Marijuana Producer</u>	X	X	X	X	X	X	X	X	X
<u>Marijuana Retailer<sup>9</sup></u>	X	X	X	X	X	X	X	X	X

Notes: 9. This section shall be in effect through November 30, 2015.

Section 3. Ordinance No. 2698, providing for a moratorium on the establishment, location, operation, maintenance or continuation of marijuana related facilities, is hereby repealed.

Section 4. 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. 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 20<sup>th</sup> day of October, 2014.

SIGNED: \_\_\_\_\_

Mayor

ATTEST: \_\_\_\_\_

Clerk

APPROVED as to form:

  
\_\_\_\_\_  
City Attorney

# Classified Proof

DAVID SCHULTZ

Client CAM85040 - CITY OF CAMAS  
Address 616 NE 4TH AVE, apt. #F  
CAMAS, WA, 98607

Phone (360) 834-2462  
E-Mail  
Fax

Order# 522052  
Classification 0161 - Legal Notices  
Start Date 10/28/2014  
End Date 10/28/2014  
Run Dates 1  
Publication(s) Camas Washougal Post Record

Requested By  
PO # ORDINANCE 2712  
Created By BOFO  
Creation Date 10/21/2014, 03:52:37 pm  
Dimensions 1.5600 " X 5.7667 "

Order Price  
Tax 1 \$223.85  
Tax 2 \$0.00  
Total Net \$223.85  
Payment \$0.00

Sales Rep XL01 - Bobbi Foster

Phone (360) 834-2141  
E-Mail bobbi.foster@camaspostrecord.com  
Fax

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Amend CMC 18.07.030 Table 1 by adding:

18.07.030 Table 1 - Commercial and industrial land uses.

KEY:

P = Permitted Use

C = Conditional Use

X = Prohibited Use

T = Temporary Use

Zoning Districts: NC; Commercial Uses: Machine shop(6); X; Marijuana processor; X; Marijuana Producer: X; Marijuana Retailer (9); X

Zoning Districts: DC; Commercial Uses: Machine shop(6); X; Marijuana processor; X; Marijuana Producer: X; Marijuana Retailer (9); X

Zoning Districts: CC; Commercial Uses: Machine shop(6); C; Marijuana processor; X; Marijuana Producer: X; Marijuana Retailer (9); X

Zoning Districts: RC; Commercial Uses: Machine shop(6); C; Marijuana processor; X; Marijuana Producer: X; Marijuana Retailer (9); X

Zoning Districts: MX; Commercial Uses: Machine shop(6); C; Marijuana processor; X; Marijuana Producer: X; Marijuana Retailer (9); X

Zoning Districts: BP; Commercial Uses: Machine shop(6); C; Marijuana processor; X; Marijuana Producer: X; Marijuana Retailer (9); X

Zoning Districts: LI/BP; Commercial Uses: Machine shop(6); P(5); Marijuana processor; X; Marijuana Producer: X; Marijuana Retailer (9); X

Zoning Districts: LI; Commercial Uses: Machine shop(6); C; Marijuana processor; X; Marijuana Producer: X; Marijuana Retailer (9); X

Zoning Districts: HI; Commercial Uses: Machine shop(6); P; Marijuana processor; X; Marijuana Producer: X; Marijuana Retailer (9); X

Notes: 9. This section shall be in effect through November 30, 2015.

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Section 5. 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 20th day of October, 2014.

SIGNED: Scott Higgins, Mayor  
ATTEST: /s/Peter Capell, Clerk  
APPROVED as to form:  
/s/

City Attorney  
No. 522052-Oct. 28