




City of Arlington Council Agenda Bill

Item:
NB #7
Attachment
N

COUNCIL MEETING DATE:	
November 4, 2013	
SUBJECT:	
Ordinance adopting a moratorium on the establishment of marijuana producer, marijuana processor, and marijuana retailer establishments and the licensing and permitting thereof	
ATTACHMENTS:	
Ordinance adopting a moratorium on the establishment of marijuana producer, marijuana processor, and marijuana retailer establishments and the licensing and permitting thereof	
DEPARTMENT OF ORIGIN	
Community & Economic Development – Paul Ellis, 360-403-4603	
EXPENDITURES REQUESTED:	-0-
BUDGET CATEGORY:	N/A
LEGAL REVIEW:	
DESCRIPTION:	
Staff is recommending a three month moratorium on recreational marijuana producers, processors, and retailers until we are able to work on the development of an ordinance to address compatible locations. A three month moratorium will provide an opportunity for staff to work with the Planning Commission and the City Council on the compatibility issue.	
HISTORY:	
Recreational marijuana was authorized by the passage of Initiative 502 in November 2012. The Washington State Liquor Control Board is in the process of completing the rules that will be imposed on producers, processors, and retailers. The State will begin issuing licenses on November 18, 2013. The City has been allocated one retail establishment that can locate within the city limits.	
ALTERNATIVES	
RECOMMENDED MOTION:	
I move to approve the Interim Ordinance adopting a moratorium on the establishment of marijuana producer, marijuana processor, and marijuana retailer establishments and the licensing and permitting thereof.	



City of Arlington
Council Agenda Bill

Item:
NB #7
Attachment
N

ORDINANCE NO. 2013-xxx

**AN INTERIM ORDINANCE OF THE CITY OF ARLINGTON,
WASHINGTON, ADOPTING A MORATORIUM ON THE
ESTABLISHMENT OF MARIJUANA PRODUCER, MARIJUANA
PROCESSOR, AND MARIJUANA RETAILER ESTABLISHMENTS AND
THE LICENSING AND PERMITTING THEREOF; DEFINING THE
SAME; PROVIDING FOR A PUBLIC HEARING; ESTABLISHING AN
EFFECTIVE DATE; AND PROVIDING THAT THE MORATORIUM,
UNLESS EXTENDED, WILL SUNSET WITHIN SIX (6) MONTHS OF
THE DATE OF ADOPTION.**

WHEREAS, in conformity with the responsibilities of the City of Arlington to provide for public health, safety and welfare requirements and zoning and land use regulations pursuant to state law, and City's authority to regulate land use activity within its corporate limits, the City intends to develop appropriate public health, safety and welfare requirements and zoning and land use regulations for marijuana producer, marijuana processor, and marijuana retailer establishments in the City of Arlington; and

WHEREAS, the City Council has determined it needs additional time to conduct appropriate research to analyze the effects of current state law pertaining to the establishment of marijuana producer, marijuana processor, and marijuana retailer establishments, especially in light of the pending rules and regulations to be established by the Washington State Liquor Control Board pursuant to Initiative Measure No. 502; and

WHEREAS, a moratorium will provide the City with additional time to review and amend its public health, safety and welfare requirements and zoning and land use regulations related to marijuana producer, marijuana processor, and marijuana retailer establishments consistent with the provisions of chapter 69.51A RCW and Initiative Measure No. 502; and

WHEREAS, Washington State law, including Sections 35A.63.220 and 36.70A.390 of the Revised Code of Washington, (RCW) authorizes Washington cities to adopt moratoria and provides for a process for a public hearing which must be held within sixty days of the dates of the adoption of the moratorium; and

WHEREAS, the City Council concludes that the City does have that authority to establish a moratorium and that the City must adopt a moratorium concerning the establishment of marijuana producer, marijuana processor, and marijuana retailer establishments to act as a stop-gap measure: (a) to provide the City with an opportunity to study the issues concerning the establishment of such establishments and prepare appropriate revisions to the City's codes and regulations; (b) to protect the health, safety, and welfare of the citizens of Arlington by avoiding and ameliorating negative impacts and unintended consequences of said establishments and (c) to avoid applicants possibly establishing vested rights contrary to and inconsistent with any revisions the City may make for its rules and regulations as a result of the City's study of this matter; and

WHEREAS, the City Council adopts the foregoing as its findings of fact justifying the adoption of this ordinance; and

WHEREAS, the City Council finds that the moratorium imposed by this Ordinance is necessary for the immediate preservation of the public peace, health or safety and for the immediate support of city government and its existing public institutions;

NOW, THEREFORE, the City Council of the City of Arlington, Washington, do ordain as follows:

Section 1. Findings. The recitals set forth above are hereby adopted as the Arlington City Council's findings in support of the moratorium imposed by this ordinance.

Section 2. Moratorium Established. A moratorium is imposed on the establishment within the City of any new marijuana producer, marijuana processor, and marijuana retailer establishments, asserted to be authorized or actually authorized pursuant to Chapter 69.51A RCW or any other laws of the State of Washington. No building permits, occupancy permits, business license, development permits or approval or any other city-issued license or permit shall be issued for any of the purposes or activities related to the establishment of marijuana producer, marijuana processor, and marijuana retailer establishments.

Section 3. Term of Moratorium. The moratorium imposed by this ordinance shall become effective on the date hereof and shall continue in effect for an initial period not to exceed six months, unless repealed, extended or modified by the City Council after subsequent public hearing(s) and entry of appropriate findings of fact, pursuant to RCW 36.70A.390, provided that the moratorium shall automatically expire upon the effective date of the adoption by the City Council of public health, safety and welfare requirements and zoning and land use regulations to address regulation of the establishment of marijuana producer, marijuana processor, and marijuana retailer establishments in the City of Arlington.

Section 4. Definitions. For purposes of this ordinance, the following definitions shall apply:

"Marijuana processor" means a person licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

"Marijuana producer" means a person licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

"Marijuana retailer" means a person licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet.

Section 5. Referral to Staff and Planning Commission. The Arlington Community Development Director is hereby authorized and directed to develop draft regulations regarding marijuana producer, marijuana processor, and marijuana retailer establishments. The regulations shall be referred to the Arlington Planning Commission for review and recommendation for inclusion in the zoning and/or other ordinances of the City of Arlington.

Section 6. Ordinance to be Transmitted to Department. Pursuant to RCW 36.70A.106, a copy of this interim ordinance shall be transmitted to the Washington State Department of Commerce.

Section 7. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be 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 8. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this ordinance take effect immediately upon passage by a majority vote plus one of the whole membership of the Council, and that the same is not subject to a referendum (RCW 35A.12.130). Without an immediate moratorium on the City's acceptance of development applications for the establishment of any marijuana producer, marijuana processor, and marijuana retailer establishments, said establishments could locate and develop in a manner incompatible with the codes eventually adopted by the City. Therefore, the moratorium must be imposed as an emergency measure to protect the public health, safety, and welfare.

Section 9. Public Hearing. As required by RCW 36.70A.390, a public hearing shall be scheduled for 7:00 p.m. on _____, 2013, within sixty (60) days of the date of this ordinance, to hear and consider the comments and testimony of those wishing to speak at such public hearing regarding the moratorium.

Section 10. Publication. This ordinance shall be published by an approved summary consisting of the title.

Section 11. Effective Date. This ordinance shall take effect and be in full force and effect immediately upon passage as long as it is approved by a majority plus one of the entire membership of the City Council, as required by RCW 35A.12.130; provided, however, that unless extended by act of the City Council, this ordinance shall automatically expire six (6) months following its adoption.

CITY OF ARLINGTON:

Barbara Tolbert, Mayor

ATTEST:

Kristin Banfield, City Clerk

APPROVED AS TO FORM:

Steven J. Peiffle, City Attorney