

RESOLUTION NO. 51-13

A RESOLUTION of the city of Richland declaring a moratorium prohibiting producing, processing and retail sales of recreational marijuana pending the adoption of rules and zoning regulations within the City and setting public hearing thereon.

WHEREAS, Initiative 502 was passed by the voters of the State of Washington in November 2012 providing a framework which marijuana producers, processors, and retailers can become licensed by the State of Washington; and

WHEREAS, under Initiative 502, the Washington State Liquor Control Board (Board) is responsible for adopting regulations to govern the licensing and operation of marijuana producers, processors, and retailers. The Board is currently drafting the regulations and receiving public input, and projects that the regulations will be formally issued later this year; and

WHEREAS, possession and use of marijuana for any purpose, including medical use, remains illegal under federal law. Marijuana is listed as a Schedule I drug under the Federal Controlled Substance Act. Despite a recent Department of Justice memorandum indicating that the federal government will not actively prosecute those involved in retail production or sale of marijuana so long as all processes are tightly controlled by a strict regularly scheme, this policy statement creates no enforceable protections for local governments who issue permits in compliance with Washington's newly-codified state law, thereby forcing cities and counties to assume the risk; and

WHEREAS, there are several lawsuits pending which would eventually impact regulations related to marijuana production, distribution, sales and use; and

WHEREAS, it is anticipated that, without appropriate regulations, producing, processing, and retail sales of recreational marijuana may result in an increased risk to health and safety, may require increased police and code enforcement activities, and may affect the use and enjoyment of surrounding properties; and

WHEREAS, unless the City acts immediately to address collective gardens, production, processing and retail sales of marijuana, and other marijuana-related uses, such uses may be able to locate in the city without regulation, and thereby have adverse impacts on the city and its citizens; and

WHEREAS, the City intends to develop appropriate zoning and land use regulations to accommodate the production, processing, and retail sales of recreational marijuana to the extent such activities do not conflict with federal law; and

WHEREAS, Washington law authorizes the City to adopt a moratorium with a public hearing which must be held within sixty (60) days of the date of the adoption of a moratorium; and

WHEREAS, the City Council has determined that it is in the best interest of the City that a moratorium be established to provide the City an opportunity to study appropriate regulations for production, processing and retail sales of recreational marijuana and to develop a work plan for the implementation of such regulations that comply with federal law.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Richland as follows:

Section 1 - Moratorium Established. A moratorium is imposed prohibiting the production, processing, and/or retail sale of recreational marijuana within all zoning districts within the City of Richland; and a moratorium is imposed on the filing with the City, or the Courts of Competent Jurisdiction, any applications for licenses, permits, or other approvals for the processing, production, and/or retail sale of marijuana for the duration of this moratorium.

Section 2 - Term of Moratorium. The moratorium imposed by this Resolution shall become effective on the date hereof, and shall continue in effect for an initial period of six (6) months, unless repealed, extended, or modified by the City Council after a public hearing and the entry of appropriate findings of fact as required by RCW 35.63.200; provided, however, that the moratorium shall automatically expire upon the effective date of zoning regulations adopted by the City Council to address the processing, production, and/or retail sales of recreational marijuana within the City of Richland.

Section 3 - Public Hearing. A public hearing shall be scheduled for 7:30 p.m., or as soon thereafter as the matter may be heard, on the 2nd day of December, 2013, at the City Council Chambers of the Richland City Hall, where it will hear evidence and consider the comments and testimony of those wishing to speak at such public hearing regarding the moratorium.

Section 4 - Preliminary Findings. Following the public hearing, the City Council shall adopt Findings of Fact justifying its actions before the public hearing, and determine whether a work plan is necessary to address the issues involving the processing, production, and/or retail sales of recreational marijuana within the City and if appropriate, extending the moratorium to complete the work plan and implementation of appropriate regulations.

Section 5 - Effective Date. This Resolution shall be in full force and effect upon its passage and signature below.

ADOPTED by the City Council of the City of Richland at a regular meeting on the 15th day of October, 2013.

JOHN FOX
Mayor

ATTEST:

APPROVED AS TO FORM:

MARCIA HOPKINS
City Clerk

HEATHER D. KINTZLEY
City Attorney