

ORDINANCE NO. 03-15

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINGTON, WASHINGTON, AMENDING ORDINANCE NO. 06-14 TO EXTEND THE INTERIM ZONING REGULATIONS FOR RECREATIONAL MARIJUANA PRODUCTION, PROCESSING, AND RETAIL USES FOR AN ADDITIONAL SIX MONTHS; PROVIDING FOR A PUBLIC HEARING ON THE EXTENSION; ADOPTING FINDINGS OF FACT; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Initiative 502, passed by Washington voters on November 6, 2012, and codified in Chapter 69.50 of the Revised Code of Washington (RCW), modified the State Controlled Substances Act to allow the possession of recreational marijuana for private and personal use and established a system for lawful production, processing, and retailing of recreational marijuana under state law; and

WHEREAS, the Washington State Liquor Control Board (LCB) developed rules and regulations related to the licensing and location of recreational marijuana production, processing, and retailing uses as allowed under the Initiative, has accepted applications, and has begun to issue licenses for recreational marijuana businesses; and

WHEREAS, on January 16, 2014, the Washington State Attorney General issued a formal opinion which concluded that I-502 does not prevent local governments from regulating or banning marijuana businesses; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorize the city to adopt interim land use regulations and official controls,

WHEREAS, the LCB will not consider local zoning regulations in deciding whether to issue licenses for recreational marijuana producers, processors, and retailers, but those businesses are required to comply with local zoning regulations and controls; and

WHEREAS, the city council believes that health, safety, and welfare of the community is best served by imposing interim zoning regulations, with reasonable limitations, to avoid locating recreational marijuana retail outlets next to incompatible uses while permanent zoning code amendments are considered; and

WHEREAS, on November 12, 2013, the city council adopted Ordinance No. 10-13, which declared an emergency necessitating the immediate adoption of interim zoning regulations for recreational marijuana production, processing, and retail uses for an initial six-month period, which regulations were subsequently amended in April 2014 by Ordinance No. 06-14, and in September 2014 those regulations as amended were extended for an additional six-months by Ordinance No. 12-14; and

WHEREAS, the interim zoning regulations will expire on April 8, 2015, unless the interim regulations are extended; and

WHEREAS, pursuant to WAC 197-11-800(19), the adoption of this ordinance is exempt from environmental review under the State Environmental Policy Act; and

WHEREAS, on March 10, 2015, the city council conducted a public hearing, providing an opportunity for the public to comment on the interim zoning regulations set forth in this ordinance prior to the adoption of an extension and the council has weighed the testimony received; and

WHEREAS, though the LCB has begun issuing licenses for recreational marijuana businesses, the land use and secondary impacts of these uses are still largely unknown and the regulations that the city will need to address them remain uncertain; and

WHEREAS, city staff continue to follow the activities of the LCB and challenges brought concerning the legality of marijuana regulations enacted by other Washington cities; and

WHEREAS, city staff anticipates that additional review related to the licensing, siting, and taxation of recreational marijuana may be forthcoming during the current state legislative session; and

WHEREAS, the actions of the LCB, state legislature, and courts will inform the recommendations of city staff and the planning commission prior to the council's consideration of any permanent zoning regulations being adopted; and

WHEREAS, based on the public testimony received on March 10, 2015, and materials provided by city staff, the council deems it in the public interest to extend the currently adopted interim zoning regulations for recreational marijuana production, processing, and retail uses for an additional six-months to observe and investigate further the land use and secondary impacts of said uses; and

WHEREAS, nothing in this ordinance is intended nor shall be construed to authorize or approve of any violation of federal or state law;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COVINGTON, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Findings of Fact. In accordance with RCW 35A.63.220 and RCW 36.70A.390, which require the city council to adopt findings of fact justifying the adoption of interim zoning regulations, the "WHEREAS" clauses set forth above are hereby adopted as the city council's findings of fact in support of the interim zoning regulations imposed by this ordinance and are fully incorporated herein by this reference. The city council may adopt additional findings in the event that additional evidence is presented to the city council.

Section 2. Extension of Interim Zoning Ordinance. The amended interim zoning regulations adopted by Ordinance No. 06-14 and extended by Ordinance No. 12-14 shall not lapse and shall be extended for an additional six (6) month period ending on October 8, 2015, and shall automatically expire on that date unless earlier repealed, amended, or extended by the city council.

Section 3. Severability. Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4. Corrections. Upon the approval of the City Attorney, the City Clerk is authorized to make any necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

Section 5. Effective Date. This ordinance shall be published in the official newspaper of the city and shall take full force and effect on April 8, 2015.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF COVINGTON, WASHINGTON, at a regular meeting thereof this 10th day of March, 2015.



Mayor Margaret Harto

PUBLISHED: March 13, 2015

EFFECTIVE: April 8, 2015

ATTESTED:



Sharon Scott, City Clerk

APPROVED AS TO FORM:



Sara Springer, City Attorney