

ORDINANCE NO. 15-024

AN ORDINANCE amending certain provisions of the Camas Municipal Code to prohibit the retail sale of marijuana within the City of Camas and to repeal the sunset date provided under CMC 18.07.030 Table 1, Note 9.

WHEREAS, Washington Initiative Measure No. 502, hereinafter "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

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 meet certain specified Federal Concerns; and

WHEREAS, 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 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 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, 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, on October 20, 2014, the City of Camas enacted Ordinance No. 2712, which amended 18.03.030 and 18.07.030 by adopting land use and zoning regulations, and establishing prohibitions on the locations of marijuana-related facilities. Specifically, marijuana production and processing were prohibited in all zoning districts throughout the City of Camas, and the retail sale of marijuana was prohibited in all zoning districts throughout the City of Camas, however, the Code included a sunset clause of November 30, 2015, for the prohibition of the retail sale of marijuana in commercial and industrial designated districts; and

WHEREAS, the City held a Public Hearing on September 15, 2015, before the Planning Commission where it took testimony, considered proposed code amendments, deliberated, and forwarded a recommendation to City Council to amend the Camas Municipal Code to allow the retail sale of marijuana in Community Commercial and Regional Commercial zoning districts.

WHEREAS, the City held a Public Hearing on October 26, 2015, before the City Council to consider the proposed code amendments; and

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 amending certain provisions of the Camas Municipal

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Code to prohibit the retail sale of marijuana within the City of Camas and to repeal the sunset date provided under CMC 18.07.030 Table 1, Note 9.

Section 2. Section 18.07.030 Table I, Note 9 of the Camas Municipal Code is hereby repealed.

Section 3. This ordinance shall take force and be in effect five (5) days from and after its publication according to law.

Section 4. 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 16<sup>th</sup> day of November, 2015.

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

Mayor

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

Clerk

APPROVED as to form:

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City Attorney