

City Of Woodland
City Council Meeting Agenda Summary Sheet

Agenda Item: Final Reading of Ordinance 1281, Establishing a Moratorium on recreational marijuana

Agenda Item #: (D) Action

For Agenda of: October 21, 2013

Department: Planning

Date Submitted: October 16, 2013

Cost of Item: 0

Amount Budgeted:

Unexpended Balance:

BARS #:

Description:

Department Supervisor Approval: Amanda Smeller, Community Development Planner

Committee Recommendation: n/a

Agenda Item Supporting Narrative (list attachments, supporting documents):

1. Staff Report
2. Ordinance 1281

Summary Statement

Please see staff report.

Staff Report to Council: Recreational Marijuana Moratorium

Date: October 16, 2013

To: Woodland City Council

From: Amanda Smeller, Community Development Planner

Re: Moratorium for Recreational Marijuana

During the October 7, 2013 City Council meeting, Council passed two motions regarding amendments to the Recreational Marijuana Moratorium. The first motion addressed only establishing a moratorium on processing and producers of marijuana and allowing retail sales. This amendment request is reflected in both the findings of fact statements and in the Moratorium Enacted section. Further, some councilmembers requested specific language in regards to where the retail sales would be allowable. This language is also reflected in the Moratorium Enacted section.

The second motion was in regards to changing the ordinance from a first and final reading to a first reading only. Therefore, what is brought back before you today is the final reading of the Recreational Marijuana Moratorium.

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ORDINANCE NO. 1281

THE CITY OF WOODLAND, WASHINGTON

AN ORDINANCE OF THE CITY OF WOODLAND, WASHINGTON, ADOPTING A MORATORIUM UPON THE ESTABLISHMENT, LOCATION, OPERATION, LICENSING, MAINTENANCE, OR CONTINUATION OF MARIJUANA RELATED USES INCLUDING PRODUCERS, PROCESSORS, AND RETAILERS.

FINDINGS

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

Under Initiative 502, the Washington State Liquor Control Board (WSLCB) is responsible for adopting regulations for the licensing and operation of marijuana producers, processors, and retailers, and the WSLCB is anticipating the regulations will be issued later this year, and expects to start taking applications on November 18, 2013; and

Marijuana production, processing, and retail uses must be addressed in the City's zoning code, but the impacts of these uses are still largely unknown and the regulations that the City will need to address them are uncertain pending the WSLCB's adoption of its licensing regulations and procedures; and

Possession and use of marijuana for any purpose remains illegal under Federal Law. Marijuana is listed as a Schedule I drug under the Federal Controlled Substance Act. On August 29, 2013, James M. Cole, Deputy Attorney General of the United State Department of Justice, issued a memorandum to all US attorneys regarding the DOJ's policy regarding marijuana enforcement under the Controlled Substances Act. In general, the DOJ will not commence civil or criminal enforcement action in jurisdictions that have legalized marijuana. However, the DOJ does not rule out enforcement actions if the state regulatory and enforcement systems do not prevent threats to the federal priorities as listed in the memorandum. The conflict between federal law which criminalizes marijuana and the state law which legalizes marijuana still exists; and

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

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

Unless the City acts immediately to address 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

The City Council, at a meeting held on September 23, 2013, determined that it is in the best interest of the City to establish a moratorium to provide the City time to develop appropriate regulations for production, processing and retail sales of recreational marijuana and to generate a work plan for the implementation of such regulations that comply with federal law; and

The City Council, at a meeting held on October 7, 2013, decided to allow for retail sales of recreational marijuana, and only establish the moratorium on the production and processing of recreational marijuana; and

Washington law authorizes cities to adopt a moratorium provided a public hearing is held within sixty (60) days of the date of the adoption of the moratorium; and

As per RCW 35A.63.220, a moratorium may be renewed for one or more six-month periods; and

The required public hearing will occur at an open public Woodland City Council meeting the 21st day of October, 2013.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF WOODLAND AS FOLLOWS:

1. Moratorium Enacted. Pursuant to the provisions of RCW 36.70A.390, a zoning moratorium is hereby enacted prohibiting the production and processing of recreational marijuana within all zoning districts of the City of Woodland; and a moratorium is hereby enacted on the filing with the City, or the Courts of Competent Jurisdiction, any applications for licenses, permits, or other approvals for the processing and production of recreational marijuana. Retail sales of recreational marijuana would be allowable in the commercial zones only, subject to criteria as outlined by the Washington State Liquor Control Board and the Woodland Municipal Code.

2. Public Hearing on Interim Zoning. Pursuant to RCW 35A.63.220, a moratorium may be enacted if a subsequent public hearing is held and findings of fact are made either prior to said public hearing or immediately after. The required public hearing will take place the 21st day of October, 2013.

3. Ordinance to be Transmitted. Pursuant to RCW 36.70A.106, this interim Ordinance shall be transmitted to the Washington State Department of Commerce as required by law.

4. Findings and Conclusions Adopted. The City Council hereby adopts the recitals set forth above, as their Findings and Conclusions as required by RCW 36.70A.390.

5. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of constitutionality of any other section, sentence, clause or phrase of this Ordinance.

6. Effective Date/Termination of Moratorium. This moratorium 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, provided, however, than 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 Woodland. This Ordinance shall be in full force and effect upon its passage and signature below.

Adopted in an open public meeting this _____ day of October, 2013.

CITY OF WOODLAND, WA

Approved:

Grover B. Laseke, Mayor

Attest:

Mari E. Ripp, Clerk-Treasurer

Approved as to form:

William J. Eling, City Attorney