

ORDINANCE O-4434

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE AND ZONING, ADOPTING INTERIM ZONING REGULATIONS PROHIBITING THE RETAIL SALE OF RECREATIONAL MARIJUANA AS A PERMITTED LAND USE IN THE MARKET STREET CORRIDOR (MSC) MSC 1 ZONE; DECLARING AN EMERGENCY, PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Initiative 502 (I-502) approved by Washington voters in November 2012, provides a framework for licensing and regulating the production, processing, and retail sale of recreational marijuana; and

WHEREAS, the Washington State Liquor Control Board has adopted rules pertaining to the licensing of marijuana producers, processors, and retailers and has accepted applications, and is poised to issue licenses for these marijuana businesses; and

WHEREAS, the State Liquor Control Board has determined that two state licenses for the retail sale of recreational marijuana may be issued for the City of Kirkland; 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, the City Council believes that health, safety, and welfare of the community is best served by imposing interim regulations to exclude the retail sale of recreational marijuana from certain zones, with neighboring incompatible uses, while permanent Zoning Code amendments are considered; and

WHEREAS, on February 4, 2014, the City Council conducted a public hearing to take public testimony on the imposition of interim zoning regulations; and

WHEREAS, on January 27, 2014, a determination of nonsignificance was issued on this proposed Ordinance; and

WHEREAS, the City has the authority to enact interim zoning regulations under RCW 35A.63.220 and RCW 36.70A.390;

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

Section 1. Findings. The recitals set forth above are incorporated as findings of fact in support of the interim regulations imposed by this ordinance. The City Council further finds as follows:

a. The City Council wishes to exercise its police power authority granted under article XI, section 11 of the Washington Constitution to promote public safety, health, and welfare, but expressly disclaims any

intent to exercise authority over marijuana uses in way that would conflict with the federal Controlled Substances Act; and

b. It is the intent of these interim zoning regulations to ensure that marijuana retail uses are not located in zones where the use is could cause inappropriate off-site impacts; and

c. The MSC 1 Zone is bordered by single-family residential neighborhoods and a portion of MSC 1 is along a designated school walk route; and

d. There are other potential sites within the City where the zoning would permit retail sales of recreational marijuana and the properties appear to be located more than 1,000 feet from public parks, elementary and secondary schools, child care centers, and public transit centers, the minimum criteria of the State Liquor Control Board; and

e. The City Council has also determined that City staff shall draft permanent Zoning Code amendments for referral to the Planning Commission for review, public hearing, and recommendation by the Planning Commission.

Section 2. Interim Zoning Regulations.

a. Marijuana retailers are prohibited in the Market Street Corridor (MSC) MSC 1 Zone.

Section 3. Definitions. As used in this ordinance, the following terms have the meanings set forth below:

a. "Marijuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3% percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, it seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plan which is incapable of germination.

b. "Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" does not include useable marijuana.

c. "Marijuana retailer" means a person licensed by the State Liquor Control Board to sell useable marijuana and marijuana-infused products in a retail outlet.

d. "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include marijuana-infused products.

Section 4. Duration. The interim zoning regulations adopted by this ordinance shall be in effect for a period of six months from the effective date of this Ordinance and shall automatically expire on that date unless extended as provided in RCW 35A.63.220 and RCW 36.70A.390, or unless terminated sooner by the Kirkland City Council.

Section 5. Work Plan. The City staff is directed to draft permanent Zoning Code amendments. The proposed amendments shall be referred to the Kirkland Planning Commission for review, public hearing, and recommendation for inclusion in the Kirkland Zoning Code.

Section 6. Declaration of Emergency. Based upon the recitals and findings set forth above, the City Council declares a public emergency exists requiring that this ordinance take effect immediately.

Section 7. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances is not affected.

Section 8. Effective Date. This ordinance shall be in force and effect immediately upon passage by the Kirkland City Council.

Section 9. Publication. Publication of this ordinance shall be pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this 4th day of February, 2014.

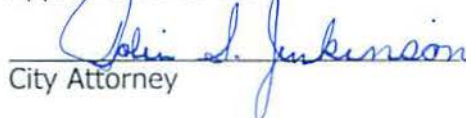
Signed in authentication thereof this 4th day of February, 2014.

  
MAYOR

Attest:

  
City Clerk

Approved as to Form:

  
City Attorney

PUBLICATION SUMMARY  
OF ORDINANCE NO. O-4434

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE AND ZONING, ADOPTING INTERIM ZONING REGULATIONS PROHIBITING THE RETAIL SALE OF RECREATIONAL MARIJUANA AS A PERMITTED LAND USE IN THE MARKET STREET CORRIDOR (MSC) MSC 1 ZONE; DECLARING AN EMERGENCY, PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE.

SECTION 1. Adopts findings in support of the interim regulations imposed by the ordinance.

SECTION 2. Lists the interim zoning regulations.

SECTION 3. Provides definitions.

SECTION 4. Defines the duration of the ordinance.

SECTION 5. Sets the work plan.

SECTION 6. Declares that a public emergency exists requiring that the ordinance take effect immediately.

SECTION 7. Provides a severability clause for the ordinance.

SECTION 8. Establishes the effective date as immediately upon passage by the Kirkland City Council.

SECTION 9. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the 4th day of February, 2014.

I certify that the foregoing is a summary of Ordinance O-4434 approved by the Kirkland City Council for summary publication.

  
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City Clerk