

ORDINANCE O-4462

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE REGULATION OF ODORS FROM MARIJUANA RETAIL, PROCESSING AND PRODUCTION BUSINESSES.

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 beginning to issue licenses for these marijuana businesses; and

WHEREAS, current City interim regulations do not specifically regulate odors emanating from marijuana retail, processing and production 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 marijuana businesses; and

WHEREAS, the City Council has continued to review how to meet the needs of the residents and businesses of Kirkland with respect to the production, processing and retail sale of recreational marijuana in light of the rules promulgated by the Washington State Liquor Control Board; and

WHEREAS, the City Council believes that health, safety, and welfare of the community is best served by imposing interim regulations of odors from marijuana retail, processing and production businesses; and

WHEREAS, prior to adoption of this Interim Ordinance, the City Council conducted a public hearing to take public testimony on the adoption of interim regulations of odors from marijuana retail, processing and production businesses.

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 regulation 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 odors from marijuana businesses do not cause inappropriate off-site impacts; and

c. The City Council desires to create regulations that address the particular needs of the residents and businesses of Kirkland and coordinate with Initiative 502 and the rules promulgated by the Washington State Liquor Control Board regarding recreational marijuana; and

d. The City Council has previously 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. The City Council now directs that permanent Zoning Code amendments relating to odors emanating from marijuana businesses be included in that project.

Section 2. Marijuana processing and production businesses must be equipped with a ventilation system that prevents marijuana odors from being detected beyond the premises of the business. Applicants for such businesses must submit a ventilation plan, prepared by a licensed mechanical engineer, at the time of the building and mechanical permit applications. The ventilation plan must be reviewed and approved by the City. Once operation of the facility commences, if odors are detected beyond the premises of the building, even with an approved ventilation plan, the facility shall be subject to Code Enforcement actions as outlined in KMC Chapter 1.12.

Section 3. 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 4. Work Plan. The City staff is directed to draft permanent Zoning Code amendments relating to odors emanating from marijuana businesses to be included with the permanent marijuana regulations currently under development. 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 5. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this 21st day of October, 2014.

Signed in authentication thereof this 21st day of October, 2014.


MAYOR

Attest:

Kathleen Anderson
City Clerk

Approved as to Form:

Oskar Rey
Assistant City Attorney

Publication Date: October 27, 2014