

RESOLUTION NO. 2013-10-06

An Resolution continuing interim land use regulations and official controls, pursuant to RCW 36.70A.390 and RCW 35.63.200; Clarifying prohibitions on the location of marijuana-related facilities and uses until the state adopts licensing regulations and the County adopts further zoning regulations; and adopting Findings of Fact.

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

WHEREAS, under Initiative 502, the Washington State Liquor Control Board (“Board”) is tasked with the responsibility to adopt rules governing the licensing and operation of marijuana producers, processors and retailers, and the Board is currently working on the regulations and is projecting that the rules will be issued later this year; and

WHEREAS, the United States Department of Justice in a letter to the Commissioners of Clark County, Washington, dated January 17, 2012, stated that “Congress has determined that marijuana is a schedule I controlled substance and, as such, growing, distributing and possessing marijuana in any capacity, other than as part of a federally-authorized research program, is a violation of federal law, regardless of state laws permitting such activities”; and

WHEREAS, the impacts of marijuana production, processing and retailing uses under a licensed system are still largely unknown and whether the County will need to adopt further regulations to address them are uncertain pending the State’s adoption of its licensing regulations and procedures; and

WHEREAS, unless the County acts immediately to clarify marijuana-related uses, some persons may precipitously choose to locate such uses in the County, thereby triggering burdensome Code enforcement actions at a later date; and

WHEREAS, Article XI, Section 11 of the Washington State Constitution authorizes the County to adopt police power regulations, and RCW 35A.63.200 and RCW 36.70A.390 authorize the County to adopt interim land use regulations and official control and the Clark County Board deems it to be in the public interest to adopt the regulations and prohibitions set forth in this Resolution under this authority; and

WHEREAS, the Board enacted a temporary interim resolution on August 13, 2013 as necessary to further the public health, safety and welfare; and

WHEREAS, the Department of Justice clarified its position indicating it would not preempt Washington's decriminalization of marijuana; and

WHEREAS, the Board has held a duly advertised public hearing in compliance with state law; and

WHEREAS, the Board enters the findings and conclusions set forth below in support of its interim resolution; Now, Therefore,

BE IT ORDERED, RESOLVED AND DECREED BY THE BOARD OF COUNTY COMMISSIONERS OF CLARK COUNTY, STATE OF WASHINGTON, AS FOLLOWS:

Section 1. Findings. In support of the regulations enacted by this Resolution, the County Board adopts, as its findings, the facts contained in the recitals set forth above. The County Board may adopt additional findings in the event that additional evidence is presented to the County Board.

Section 2. Applications for permits to grow, process, dispense and/or sell marijuana/cannabis will not be accepted by employees of Clark County pending further resolution by the Board of Clark County Commissioners. The Board hereby continues the temporary moratorium on such applications and uses pending further resolution by the Board of Clark County Commissioners or until February 13, 2014, whichever event comes first.

Section 3. The work contemplated by the interim resolution will continue and make recommendations regarding the districts, in which marijuana/cannabis may be grown, processed, and /or sold on a retail basis. The recommendations of the work group shall be returned to the County Board for review within 7 days of completion.

Section 4. Pursuant to RCW 36.70A.106, this Resolution shall be transmitted to the Washington State Department of Commerce, as required by law.

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

ADOPTED this 8 day of October, 2013.

Attest:

Jana Redline

Deputy Clerk to the Board

BOARD OF COUNTY COMMISSIONERS
CLARK COUNTY, WASHINGTON

By *[Signature]*

Steve Stuart, Chair

Approved as to Form Only:
ANTHONY GOLIK
Prosecuting Attorney

By _____
Tom Mielke, Commissioner

By *[Signature]*

Christopher Horne, WSBA #12557
Chief Civil Deputy

By _____
David Madore, Commissioner

