

ORDINANCE NO. 2018-2

AN ORDINANCE OF THE TOWN OF EATONVILLE, WASHINGTON, IMPOSING A MORATORIUM ON THE ESTABLISHMENT, LOCATION, OPERATION, LICENSING, OR MAINTENANCE OF FACILITIES, BUSINESSES, OR ANY OTHER ACTIVITIES INVOLVING THE PRODUCTION, PROCESSING, OR RETAIL SALE OF RECREATIONAL MARIJUANA OR MARIJUANA-INFUSED PRODUCTS

WHEREAS, in November 2012, the Washington voters passed I-502, which directed the Washington State Liquor Control Board (LCB) to regulate recreational marijuana by licensing and taxing recreational marijuana producers, processors, and retailers; and

WHEREAS, in November 2013, the LCB issued final rules regulating the production, processing, and retail sale of recreational marijuana; and

WHEREAS, shortly after adopting the final rules, the LCB began accepting license applications and in March 2014 began issuing licenses for recreational marijuana businesses; and

WHEREAS, following the adoption of final rules and the issuance of recreational marijuana licenses, the Washington state courts and the Washington Attorney General declared that I-502 left in place the normal powers of local government to regulate businesses within their jurisdiction, including the production, processing, and retail sale of recreational marijuana; and

WHEREAS, notwithstanding the passage of I-502, the cultivation, possession, and distribution of marijuana has been and continues to be a violation of federal law through the Controlled Substances Act; and

WHEREAS, RCW 35.63.200 and RCW 36.70A.390 authorize a municipality to adopt a moratorium for a specific purpose for up to six (6) months if a public hearing on the proposal is held within at least sixty (60) days of the moratorium's adoption; and

WHEREAS, moratoria enacted under RCW 35.63.200 and RCW 36.70A.390 are methods by which local governments may preserve the status quo so that new plans and regulations will not be rendered moot by intervening developments; and

WHEREAS, the Eatonville Municipal Code does not currently have specific

provisions addressing the production, processing, and retail sale of recreational marijuana; and

WHEREAS, the Town Council finds the Town requires sufficient time to place an advisory ballot measure on the November 2018 general election ballot in order to seek the advice of the citizens of Eatonville as to whether to ban or regulate the production, processing, and/or retail sale of recreational marijuana within Town limits; and

WHEREAS, the Town Council desires to adopt a six (6) month moratorium on the acceptance of any development permit application, business license application, or application for the siting, location, or operation of any producer, processor, or retail seller of recreational marijuana; and

WHEREAS, the Town Council finds the Town has the authority to establish a moratorium and that such moratorium concerning the acceptance of any development permit application, business license application, or application for the siting, location, or operation of any producer, processor, or retail seller of recreational marijuana will protect the health, safety, and welfare of the citizens of Eatonville; and

WHEREAS, based on the findings set forth above, the Town Council finds a moratorium to preserve the status quo is necessary; and

WHEREAS, the Town Council will hold a duly noticed public hearing within sixty (60) days of the adoption of this Ordinance at a regularly scheduled Council meeting to take public testimony regarding whether to adopt a moratorium and to consider adopting further findings; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF EATONVILLE AS FOLLOWS:

Section 1. Findings. The Town Council adopts all of the “Whereas” sections of this Ordinance as findings in support of this Ordinance. The Town Council, in its discretion, may adopt additional findings at the conclusion of the public hearing referenced above.

Section 2. Moratorium Imposed. Pursuant to RCW 35.63.200 and RCW 36.70A.390, a moratorium is hereby imposed prohibiting within the Town of Eatonville the establishment, location, operation, licensing, or maintenance of facilities, businesses, or any other activities involving the production, processing, or retail sale of recreational marijuana or marijuana infused-products asserted to be authorized or actually authorized under Washington State Initiative 502, now codified in Chapter 69.50 RCW.

Section 3. Use Prohibited. While this moratorium is in effect, the producing, processing, and retail sale of recreational marijuana or marijuana-infused products is

hereby designated as prohibited in all zoning districts of the Town of Eatonville. No building permit, occupancy permit, or other development permit, and no business license application shall be accepted and no business license shall be issued for any of the purposes or activities listed herein.

Section 4. Definitions. As used in this Ordinance, all references to “marijuana,” “marijuana processing,” “marijuana producing,” “marijuana-infused products,” “marijuana retailing,” “retail outlet,” and “useable marijuana” shall have the meaning set forth in RCW 69.50.101, as now or hereafter amended.

Section 5. Duration. This moratorium shall remain in effect until August 12, 2018 unless extended as provided in RCW 35.63.200 or unless earlier terminated by the Town Council.

Section 6. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 7. This ordinance shall take effect after publication of a summary, consisting of the title, pursuant to RCW 35.27.300.

1ST READING: 02/12/2018
2ND READING: Waived

PASSED by the Town Council of the Town of Eatonville and attested by the Clerk in authentication of such passage this ____ day of February 2018.

Mike Schaub
Mayor

ATTEST:

Kathy Linnemeyer
Town Clerk

APPROVED AS TO FORM:

Gregory A. Jacoby
Town Attorney