

BEFORE THE BOARD OF STEVENS COUNTY COMMISSIONERS

IN THE MATTER OF INITIATIVE
502; 2ND SUBSTITUTE SENATE
BILL 5052; the LEGALIZATION OF
MARIJUANA PRODUCTION,
PROCESSING and RETAIL SALES
and the REGULATION OF MEDICAL
MARIJUANA

Resolution No. 16-2016

ADOPTING INTERIM ZONING CONTROL
FOR THE SITING and DEVELOPMENT OF
PRODUCTION FACILITIES, PROCESSING
FACILITIES and RETAIL SALES FACILITIES
FOR RECREATIONAL AND MEDICAL
MARIJUANA WITHIN CERTAIN ZONES IN
THE UNINCORPORATED BOUNDARIES OF
STEVENS COUNTY and
REPEALING RESOLUTION 63-2015

WHEREAS, the Board finds that Initiative 502 was passed into law by the voters in the 2012 November general election; and

WHEREAS, the Board finds this measure removes state-law prohibitions against producing, processing, and selling marijuana, subject to licensing and regulation by the liquor control board; allows limited possession of marijuana by persons aged twenty-one and over; and imposes 25% excise taxes on wholesale and retail sales of marijuana, earmarking revenue for purposes that include substance-abuse prevention, research, education, and healthcare; and

WHEREAS, the Board finds the Washington State Liquor and Cannabis Board has adopted rules for recreational marijuana which allow for the siting and development of marijuana production facilities, marijuana processing facilities and marijuana retail sales facilities in Stevens County; and

WHEREAS, the Board finds the Washington State Liquor and Cannabis Board is proposing a series of I-502 rules revisions to address issues that have come to light regarding Washington's recreational marijuana system; and

WHEREAS, the Board finds land use regulations and official controls currently in effect in unincorporated Stevens County do not provide sufficient definitive criteria with which the County can address the concerns of County residents and properly evaluate appropriate locations for the development of production facilities, processing facilities and retail sales facilities for recreational and medical marijuana; and

WHEREAS, the Board finds it necessary to study and develop a work plan for the siting and development of production facilities, processing facilities and retail sales facilities for recreational and medical marijuana in unincorporated Stevens County; and

WHEREAS, the Board finds Washington State's permissive vested rights doctrine allows many land uses to vest to land use regulations and official controls which are in effect early in the land use and development process which could enable siting and development of such facilities to vest in inadequate land use controls while the County studies and develops appropriate land use controls, undermining effective County planning for these facilities; and

WHEREAS, the Board finds that interim zoning control for siting and developing such facilities is necessary while the County studies and develops appropriate land use controls; and

WHEREAS, the Board finds that RCW 36.70.795 and RCW 36.70A.390 provide for interim zoning control as a mechanism for preserving the status quo so that new controls and regulations will not be rendered moot by intervening development; and

WHEREAS, the Board finds notice of a public hearing was advertised on August 13, 2015 in the county official newspaper, *the Chewelah Independent*, and pursuant to said notice a public hearing was conducted on August 18, 2015 and on this date and testimony and comment was taken, heard and discussed; and

WHEREAS, the Board finds that it has always intended to restrict marijuana production and/or processing facility to rural areas with larger parcel sizes and that parcels with less than 5 acres lend themselves to a more residential character; and

WHEREAS, the Board finds that the medical marijuana system approved by Washington State voters in 1998 has been largely unregulated and that Second Substitute Senate Bill 5052 enacted by the Legislature in the 2015 Legislative Session intends to bring medical marijuana into the same regulatory scheme that the Washington State Liquor and Cannabis Board has established for recreational marijuana; and

WHEREAS, the Board finds that Second Substitute Senate Bill 5052 places the medical marijuana system under the jurisdiction of the Washington State Liquor and Cannabis Board and that state licenses will be required for the growing, processing or retail sales of medical marijuana; and

WHEREAS, the Board finds that Second Substitute Senate Bill 5052 intends to ensure that patients retain their ability to grow their own marijuana for their own medical use;

WHEREAS, the Board desires to revise the interim zoning controls regarding recreational marijuana to include interim zoning controls for the siting and development of facilities for the production, processing and retail sales of medical marijuana;

WHEREAS, the Board acknowledges that the Legislature has altered the tax structure for marijuana (RCW 69.50.535); and

WHEREAS, the Board adopts the above as its findings of fact justifying its adoption of this resolution; and

WHEREAS, the Board finds that the interim zoning control adopted by this resolution is necessary for the protection of the public health, safety property or peace; and

WHEREAS, RCW 82.04.213 approved in the 2014 legislative session was an act clarifying that marijuana, useable marijuana, and marijuana-infused products are not agricultural products; and

WHEREAS, the Board finds the prior moratorium adopted on August 24, 2015 pursuant to Resolution 63-2015 which imposed a temporary moratorium on the siting and development of marijuana production facilities, processing facilities and retail sales facilities in all zones in the unincorporated boundaries of Stevens County should be repealed to prohibit these activities in specified zones within the county;

NOW, THEREFORE, IT IS HEREBY RESOLVED AND ORDERED

1. Interim Zoning Control Imposed.

Interim Zoning Control is imposed for the siting and development of production facilities, processing facilities and retail sales facilities for recreational and medical marijuana within certain zones in the unincorporated boundaries of Stevens County as described below.

- . **Marijuana production**, as licensed by Washington State Liquor and Cannabis Board for recreational or medical use, shall be under the interim zoning control and temporarily prohibited in the following zoning classifications: Urban Residential (R-1 or R-2), Crossroad Areas, Small Resort (Type II LAMIRD), Master Planned Resort (MPR), or Fully Contained Community (FCC);
- . **Marijuana production**, as licensed by Washington State Liquor and Cannabis Board, for recreational or medical use shall be under interim zoning control and temporarily prohibited on parcels containing less than five (5) acres in the following zones: Rural Area 5 (RA-5), Rural Area 10 (RA-10), Rural Area 20 (RA-20), Rural Agriculture (AR-10), Agriculture (A), Forest (F), and Industrial (I).
- . **Marijuana processing**, as licensed by Washington State Liquor and Cannabis Board, for recreational or medical use shall be under the interim zoning control and temporarily prohibited in the following zoning classifications: Urban Residential (R-1 or R-2), Crossroad Areas, Small Resort (Type II LAMIRD), Master Planned Resort (MPR), or Fully Contained Community (FCC).
- . **Marijuana processing**, as licensed by Washington State Liquor and Cannabis Board, for recreational or medical use shall be under interim zoning control and temporarily prohibited on parcels containing less than five (5) acres in the following zones: Rural Area 5 (RA-5), Rural Area 10 (RA-10), Rural Area 20 (RA-20), Rural Agriculture (AR-10), Agriculture (A), Forest (F), and Industrial (I).
- . **Marijuana retail**, as licensed by Washington State Liquor and Cannabis Board, for recreational or medical use shall be under the interim zoning control and temporarily prohibited, except in existing retail business properties, in the following zoning classifications: Agricultural (A), Forest (F), Mineral (M), Rural Area (RA-5, RA-10, RA-20), Urban Residential (R-1 or R-2), Industrial (I), Rural Agricultural (AR), Crossroad Areas, Small Resort (Type II LAMIRD), Master Planned Resort (MPR), Fully Contained Community (FCC), or Major Industrial Development.
- . **Marijuana, production and processing for personal medical use**, shall be permitted in all zoning classifications.

2. Revision to Land Use Code.

The Land Services Department, in consultation with other County departments and other agencies, will study and develop proposed regulations and/or official controls governing the placement and development of facilities described in Section 1 within the Land Services Development Regulations (Title 3).

3. Time Period of Interim Zoning Control.

The interim zoning control shall be for a maximum of six months from the effective date of this resolution. This interim zoning control may be renewed for additional six month periods pursuant to RCW 36.70.795 and RCW 36.70A.390.

4. Severability.

If any provision of this resolution or its application to any person, entity or circumstance is for any reason held invalid, the remainder of the resolution, or the application of the provisions to other persons, entities or circumstances is not affected.

5. Effective Immediately.

This resolution is necessary for the protection of the public health, public safety, public property, or public peace, shall be effective immediately upon its passage.

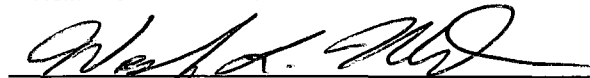
6. Resolution No. 63-2015 is hereby repealed.

Passed by the Board of Stevens County Commissioners meeting in regular session at Colville, Washington, by the following vote, then signed by its membership and attested to by its Clerk in authorization of such passage the 22nd day of February, 2016.

3 YEA; 0 NAY; 0 ABSTAIN; and 0 ABSENT

BOARD OF COUNTY COMMISSIONERS
OF STEVENS COUNTY, WASHINGTON


Chairman Don Dashiell


Commissioner Wes McCart


Commissioner Steve Parker

Attest:


Polly Coleman
Clerk of the Board