

RESOLUTION NO. 10471

A RESOLUTION REFERRING ORDINANCE NO. 3246, AN ORDINANCE AMENDING THE OFFICIAL CODE OF THE CITY OF GREAT FALLS TO SPECIFICALLY PROHIBIT ANY MARIJUANA BUSINESSES FROM OPERATING IN THE CITY OF GREAT FALLS, TO A VOTE OF THE PEOPLE AT AN ELECTION TO BE HELD ON NOVEMBER 8, 2022

WHEREAS, the City of Great Falls, Montana, established a charter form of government in 1986 with self-governing powers in accordance with Article XI, Section 5, of the Constitution of Montana; and

WHEREAS, the City of Great Falls is authorized by its Charter and Montana law to establish laws to protect the health, safety and welfare of the citizens of Great Falls; and

WHEREAS, the City Commission took action in June of 2010, in furtherance of those powers, to adopt Ordinance 3054 with the intention of prohibiting any medical marijuana activities in the City of Great Falls; and

WHEREAS, in November of 2020, a majority of the voters of the State of Montana, including a majority of the voters of Cascade County and the City of Great Falls, voted to approve Initiative Measure 190 (“I-190”), which legalized possession and use of limited amounts of marijuana for adults over the age of 21 and approved various categories of commercial marijuana business activities; and

WHEREAS, I-190, as passed by the voters, contained express limitations on the ability of a charter municipality like the City of Great Falls to completely prohibit certain adult-use marijuana providers and dispensaries from being located in the City; and

WHEREAS, the 2021 Montana Legislature took action to enact House Bill 701, which amended I-190 and created a different comprehensive structure to allow for and regulate commercial marijuana business activities in Montana; and

WHEREAS, one of the specific changes the Montana Legislature made to I-190 through HB 701 was to remove I-190’s express limitation on the ability of a charter municipality like the City of Great Falls to completely prohibit certain commercial marijuana business activities; and

WHEREAS, § 7-5-132, MCA allows the City Commission to refer a proposed ordinance specifically prohibiting all types of commercial marijuana business categories from operating within the City of Great Falls to a vote of the electors of the City; and

WHEREAS, the City Commission now wishes to submit the question of whether to specifically prohibit all types of commercial marijuana business categories from operating within the City of Great Falls to a vote of the electors of the City to be conducted on November 8, 2022.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, that:

1. **REFERENCE:** The City Commission of the City of Great Falls has proposed an ordinance amending Sections 17.4.070 and 17.20.3.070 of the Official Code of the City of Great Falls to include a specific prohibition on all types of commercial marijuana business categories from operating within the City of Great Falls and hereby refers the proposed ordinance to a vote of the people at a municipal election to be held on November 8, 2022. A full copy of the proposed ordinance is attached hereto, marked as Attachment “1”, and by this reference made a part hereof.

2. **FORM OF BALLOT:** The form of the ballot shall be as provided by law and as follows:

Summary: Initiative Measure I-190 (I-190) was approved by the electors of the State of Montana (including the electors of Cascade County and the City of Great Falls) in the November 2020 General Election, legalizing possession and use of limited amounts of marijuana by adults over the age of 21 and legalizing certain commercial marijuana business categories. The Montana Legislature subsequently modified and repealed various portions of I-190 to create a different legal structure to allow for and regulate marijuana business activities relating to adult-use and medical marijuana. This ballot measure asks voters to approve or disapprove an amendment to the Official Code of the City of Great Falls that would specifically prohibit all of the forms of marijuana business categories otherwise authorized under Montana law from operating within the City of Great Falls. The use and possession of marijuana by adults over the age of 21 as now authorized by Montana law will not be impacted by this vote.

Proposal: The City Commission of the City of Great Falls has proposed an amendment to the Official Code of the City of Great Falls to specifically prohibit all types of marijuana business categories from operating within the City of Great Falls. These business categories include marijuana dispensaries (adult-use and medical), combined use, cultivation and manufacturing activities, testing laboratories and marijuana transportation facilities.

[] **FOR** amending the Official Code of the City of Great Falls to specifically prohibit all types of commercial marijuana business categories from operating within the City of Great Falls.

[] **AGAINST** amending the Official Code of the City of Great Falls to specifically prohibit all types of commercial marijuana business categories from operating within the City of Great Falls.

3. **CERTIFICATION:** The City Clerk shall certify this Resolution and attached proposed Ordinance amendment to the Cascade County Election Official as provided by law.

4. **EFFECTIVE DATE:** This Resolution shall be effective upon adoption.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, this 2nd day of August, 2022.

Bob Kelly, Mayor

ATTEST:

Lisa Kunz, City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

Jeff Hindoien, City Attorney

Ordinance 3246 Exhibit “A”

Title 17 – LAND DEVELOPMENT CODE

Sections:

17.4.070 Relationship of this Title to other regulations.

In addition to meeting the regulations contained in this Title, development shall comply with all applicable regulations of Federal and State agencies. In all cases, the strictest of the applicable provisions shall apply. No use of land shall be permitted by right or conditionally permitted within the incorporated City limits that is in violation of federal, state or local law. **This prohibition includes, but is not limited to, any use of land for the marijuana business categories otherwise authorized by Mont. Code Ann., Title 16, Chapter 12, Parts 1 through 5 and Admin. R. Mont. §§ 42.39.401 et seq.**

(Ord. No. 3246 (2022); Ord. 3194 (2019))

17.20.3.070 Prohibited land uses.

No use of land shall be permitted by right or conditionally permitted within the City of Great Falls that is in violation of federal, state or local law. **This prohibition includes, but is not limited to, any use of land for the marijuana business categories otherwise authorized by Mont. Code Ann., Title 16, Chapter 12, Parts 1 through 5 and Admin. R. Mont. §§ 42.39.401 et seq.**

(Ord. No 3246 (2022); Ord. No. 3054, § 1, 6-1-2010)

ATTACHMENT “1”

ORDINANCE 3246

AN ORDINANCE AMENDING TITLE 17, CHAPTER 4 AND CHAPTER 20, OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF) PERTAINING TO USE OF LAND WITHIN THE CITY OF GREAT FALLS FOR COMMERCIAL MARIJUANA BUSINESS ACTIVITIES

* * * * *

WHEREAS, the City of Great Falls is authorized by its Charter and Montana law to establish laws to protect the health, safety and welfare of the citizens of Great Falls; and

WHEREAS, the City Commission has, in the exercise of those powers, previously established Title 17 of the Official Code of the City of Great Falls (OCCGF), which establishes a comprehensive structure for development and land use within the City of Great Falls; and

WHEREAS, the City Commission took action in June of 2010 to adopt Ordinance 3054, as a component of the Title 17, Chapter 4 and Chapter 20, provisions regarding land use, to prohibit any medical marijuana activities in the City of Great Falls;

WHEREAS, in November of 2020, a majority of the voters of the State of Montana, including a majority of the voters of Cascade County and the City of Great Falls, voted to approve Initiative Measure 190 (“I-190”), which legalized both the adult use of marijuana under certain limitations and various categories of commercial marijuana business activities; and

WHEREAS, I-190, as passed by the voters, contained express limitations on the ability of a charter municipality like the City of Great Falls to completely prohibit certain adult-use marijuana providers and dispensaries from being located in the City; and

WHEREAS, the 2021 Montana Legislature took action to enact House Bill 701, which amended I-190 and created a different comprehensive structure to allow for and regulate commercial marijuana business activities in Montana; and

WHEREAS, one of the specific changes the Montana Legislature made to I-190 through HB 701 was to remove I-190’s express limitation on the ability of a charter municipality like the City of Great Falls to completely prohibit certain commercial marijuana business activities; and

WHEREAS, § 7-5-132, MCA allows the City Commission to refer a proposed ordinance specifically prohibiting all types of commercial marijuana business categories from operating within the City of Great Falls to a vote of the electors of the City; and

WHEREAS, the City Commission now wishes to submit the question of whether to amend OCCGF Title 17 to specifically prohibit all types of commercial marijuana business categories

from operating within the City of Great Falls to a vote of the electors of the City to be conducted on November 8, 2022.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, CONDITIONED UPON APPROVAL BY A VOTE OF THE ELECTORS OF THE CITY:

Section 1. The provisions of OCCGF Title 17, Chapter 4 and Chapter 20, are hereby proposed to be amended as depicted by Exhibit "A" attached hereto and by reference incorporated herein with deleted language identified by ~~strikeout~~ and inserted language **bolded**; and

Section 2. This proposed ordinance shall be in full force and effect immediately upon certification by the Cascade County Election Administrator of an election result showing that a majority of the electors of the City of Great Falls voting in the election to be conducted on November 8, 2022 have voted in favor of this proposed ordinance. In the event that the Cascade County Election Administrator certifies an election result showing that a majority of the electors of the City of Great Falls voting in that election have voted against this proposed ordinance, this ordinance shall be null, void and of no legal force or effect.

REFERRED TO THE VOTERS via Resolution 10471 by the City Commission of the City of Great Falls, Montana, this 2nd day of August, 2022.

Bob Kelly, Mayor

ATTEST:

Lisa Kunz, City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

Jeff Hindoien, City Attorney