RESOLUTION

WHEREAS, pursuant to the provisions of RCW 36.32.120(6), the Board of County Commissioners of Spokane County, Washington, (sometimes hereinafter referred to as the “Board”), has the care of the county property and management of county funds and business; and

WHEREAS, pursuant to the provisions of chapters 36.70 and 36.70A RCW, the Board has adopted a Comprehensive Plan for the unincorporated areas of Spokane County; and

WHEREAS, pursuant to the provisions of chapter 36.70 RCW, the Board of County Commissioners of Spokane County, Washington, created a Planning Commission, hereinafter referred to as the “Commission” and a Department of Building and Planning, hereinafter referred to as the “Department”; and

WHEREAS, pursuant to the provisions of chapters 36.70 and 36.70A RCW, the Board on May 5, 2004, under Spokane County Resolution No. 04-0461 adopted a new Zoning Code to implement the Goals and Policies of the Comprehensive Plan, said regulation becoming effective June 1, 2004 which has been amended from time to time; and

WHEREAS, RCW 36.70.795 provides that:

“A board that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the board received a recommendation on the matter from the commission or department. If the board does not adopt findings of fact justifying its action before this hearing, then the board shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.”

; and

WHEREAS, RCW 36.70A.390 provides in pertinent part:

“A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map,
interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for no longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal."

WHEREAS, moratoriums and interim zoning ordinances enacted under RCW 36.70.795 or 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 development; and

WHEREAS, RCW 36.70.795 and RCW 36.70A.390 authorize the enactment of a moratorium, interim zoning map, interim zoning ordinance or interim official control without holding a public hearing; and

WHEREAS, WAC 197-11-880 provides:

“Actions that must be undertaken immediately or within a time too short to allow full compliance with this chapter, to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private property, to prevent an imminent threat of serious environmental degradation, shall be exempt. Agencies may specify these emergency actions in their procedures.”

; and

WHEREAS, Initiative 502 was enacted in November of 2012. The implementation of this Initiative established a regulatory system to license producers, processors, and retailers of recreational marijuana; and

WHEREAS, legislative amendments to chapter 69.50 RCW included medical marijuana licensed producers, processors, and retailers under the regulatory system; and

WHEREAS, the Washington State Liquor and Cannabis Board has adopted a comprehensive set of regulations for licensing of producers, processors, and retailers in chapter 314-55 WAC; and

WHEREAS, in addition to the licensing requirements promulgated under chapter 314-55 WAC, cities, towns and counties may adopt zoning requirements, business licenses, and health and safety requirements pertaining to production, processing, and dispensing/sale of cannabis and cannabis products; and

WHEREAS, pursuant to RCW 36.70.765 and RCW 36.70.390, the Board adopted Zoning Code Amendment File No. 14-ZTA-03 on January 27, 2015 regarding the production, processing and retail sale of recreational marijuana in the unincorporated areas of Spokane County, Washington (Resolution No. 15-0071); and

WHEREAS, subsequent to adoption of the Zoning Code Amendment File No. 14-ZTA-03 the Department and Spokane County Clean Air Agency have received numerous complaints from citizens regarding the odor generated by outdoor marijuana production; and

Page 2 of 4
WHEREAS, the performance standard for production of recreational marijuana, as specified in Text Amendment 14-ZTA-03 do not adequately mitigate the impacts associated with outdoor production of marijuana; and

WHEREAS, On November 29, 2016 the Board adopted an Interim Zoning Ordinance (Resolution#16-0915) regarding production of marijuana in the unincorporated area of Spokane County. The Interim Zoning Ordinance specifies that production of marijuana in unincorporated Spokane county is limited only to an indoor facility consistent with the licensing requirements of the Washington State Liquor and Cannabis Board and all other applicable building code requirements; and

WHEREAS, if the Board were to advertise its intent to impose new regulations concerning outdoor production of marijuana in unincorporated Spokane County, the number of applications for licenses to produce marijuana outdoors in unincorporated Spokane County that would occur prior to adoption of amendments to the Spokane County Zoning Code could undermine the Boards ability to regulate such activities; and

WHEREAS, if the County were to begin public consideration of an amendment to the Zoning Code without first adopting an interim zoning ordinance, those involved in the process of outdoor marijuana production could frustrate effective land use planning by submitting applications for licenses to produce marijuana outdoors in unincorporated Spokane County and further aggravate the odor generated by outdoor marijuana production increasing concerns of public health, safety, and welfare of the adjoining/abutting property owners; and

WHEREAS, if an Interim Zoning Ordinance is not invoked, the filing of applications or licenses to produce marijuana outdoors in unincorporated Spokane County during the time necessary to adopt an amendment to the Spokane County Zoning Code is likely to impact effective long-range planning and result in the status quo not being preserved during consideration of amendments to the Zoning Code for Spokane County; and

WHEREAS, it is in the best interest of the public health, safety and welfare to adopt an Interim Zoning Ordinance as authorized under RCW 36.70.795 and RCW 36.70A.390 applicable to the outdoor production of marijuana in unincorporated Spokane County; and

WHEREAS, this measure is necessary to preserve the County's ability to effectuate Long Range Planning decisions in a comprehensive manner, and to implement effective local regulation of licensed marijuana producers outdoors; and

WHEREAS, pursuant to WAC 197-11-880, the adoption of this resolution is exempt from the requirements of a threshold determination under the State Environmental Policy Act.

WHEREAS, county staff estimates the completion of amendments to the Spokane County Zoning Code with respect to production of marijuana only in an indoor facility could take between six (6) months and one (1) year; and

WHEREAS, after required public notice, the Board of County Commissioners of Spokane County held a public hearing on January 10, 2017 to consider renewing for a six- month time frame, the Interim Zoning Ordinance initially adopted on November 29, 2016; and

NOW, THEREFORE BE IT RESOLVED, by the Board of Commissioners of Spokane County that based on public testimony presented at the public hearing on January 10, 2017 and findings contained herein, the Board affirms its decision to adopt the Interim Ordinance; and

Page 3 of 4
BE IT FURTHER RESOLVED by the Board of County Commissioners that the Interim Zoning Ordinance adopted by Resolution # 16-0915, shall remain in effect until July 10, 2017 unless renewed pursuant to applicable statute.

BE IT FURTHER RESOLVED that the Board of County Commissioners adopts each and every recital herein above as findings of fact to support the above action and additionally the Board does:

1) Direct the staff of the Spokane county Division of Building and Planning together with the Spokane county Planning Commission to expeditiously initiate an amendment to the Spokane County Zoning Code with respect to the production of marijuana in unincorporated Spokane County only in an indoor facility consistent with the licensing requirements of the Washington State Liquor and Cannabis Board for an indoor production facility.

2) Direct the Spokane County Division of Building & Planning to schedule and give proper notice of any hearings and meetings held under (1) above consistent with applicable regulations.

3) Acknowledge that the Interim Zoning Ordinance adopted herein may be effective for not more than six (6) months but may be effective for up to one (1) year if a work plan is developed for a longer period; and

4) Acknowledge that an Interim Zoning Ordinance may be renewed for one or more six (6) month period if a subsequent public hearing is held and findings of fact are made prior to each renewal.

BE IT FURTHER RESOLVED that the adoption of the Interim Zoning Ordinance is exempt from the requirements to the threshold determination under the State Environmental Policy Act pursuant to WAC 197-11-880.

PASSED, ADOPTED, AND EFFECTIVE as of 7:32 p.m. on the 10th day of January, 2017.

BOARD OF COUNTY COMMISSIONERS OF SPOKANE COUNTY, WASHINGTON

AL FRENCH, Chair

JOSH KERNS, Vice-Chair

ATTEST:

Ginna Vasquez, Clerk of the Board

SHELLEY O'QUINN, Commissioner