

RESOLUTION NO. R2018-009

A RESOLUTION of the City Council of the City of Tumwater, Washington, expressing opposition to Initiative No. 1 relating to the regulation of consumer fireworks which seeks to repeal Ordinance No. O2016-034 and impose amendments to Tumwater Municipal Code 8.30.

WHEREAS, the Tumwater City Council recognizes that fireworks are a traditional way of celebrating national independence on the Fourth of July, but also recognizes there are risks and consequences for the discharge of consumer fireworks that may be detrimental to the public health, safety and welfare; and

WHEREAS, the Council has, on numerous occasions, heard and considered many divergent opinions from City residents as to whether the sale, possession and discharge of fireworks should be totally banned within the City at all times of the year, except for public displays; and

WHEREAS, in 2016, the Council decided to provide an opportunity for all voters within the City to express their choice in the matter by placing an advisory measure on the November 8, 2016 ballot and providing that the results of such an election would be binding upon the City Council; and

WHEREAS, the result of such advisory vote was in favor of banning consumer fireworks in the City; and

WHEREAS, Ordinance No. O2016-034 was passed on December 6, 2016 banning the sale, possession, and use of consumer fireworks within the City; and

WHEREAS, RCW 35A.11.060, RCW 35.17.260, and TMC 1.14 provide authority for voters to submit proposed ordinances initiated by petition of registered voters of the city; and

WHEREAS, an initiative petition was filed with the City on December 4, 2017 by Citizens for Legal Fireworks seeking to repeal Ordinance No. O2016-034; and

WHEREAS, the initiative petition eliminates the fire chief's and City Council's authority to temporarily restrict or prohibit the discharge of fireworks in the event of extreme fire danger and, instead, creates thresholds the fire chief must monitor and report on to the council when met; and

WHEREAS, the initiative petition was delivered to the Thurston County Auditor on December 5, 2017 and the County Auditor certified the petition on December 13, 2017; and

WHEREAS, pursuant RCW 35.17.260, the City Council is required to either adopt the proposed ordinance without alteration or submit the proposed ordinance to a vote of the people at the next election date; and

WHEREAS, by adoption of Resolution No. R2018-001-S1, the City Council asked the Thurston County Auditor to place Initiative No. 1 on the April 24, 2018 Special Election Ballot; and

WHEREAS, the proposed ballot title referred in Resolution No. R2018-001-S1 was amended to comply with requirements of the Thurston County Auditor and state law resulting in the following official Ballot Title:

City of Tumwater
Initiative No. 1
An Act Relating to the Regulation of Consumer Fireworks

Tumwater Initiative No. 1 concerns the right to buy, possess and discharge consumer fireworks. This measure would permit the sale, possession and discharge of those fireworks allowed by state law (repealing Ordinance number O2016-034), restrict the number of permits issued to sell fireworks, set the dates of sale of fireworks from June 28 through July 4th, and allow the City Council to restrict (but not eliminate entirely) the hours of fireworks use during periods of extreme fire danger.

Should this measure be enacted into law?

WHEREAS, RCW 42.17A.555 allows city councils to express collective decisions and support or oppose ballot propositions; and

WHEREAS, passage of Initiative No. 1 would be contrary to the 2016 advisory ballot results; and

WHEREAS, pursuant to RCW 35.17.330, if passed, an ordinance by initiative becomes effective immediately and, pursuant to RCW 70.77.250, ordinances relating to fireworks that are more restrictive than state law may not take effect sooner than one year after adoption, creating a direct statutory conflict between RCW 35.17.330 and RCW 70.77.250; and

WHEREAS, passage of Initiative No. 1 could endanger the health, safety and welfare of the residents of the City by eliminating the authority to prohibit the discharge of fireworks in times of extreme fire danger; and

WHEREAS, pursuant to RCW 35.17.340 and 35.17.350, once passed, an ordinance initiated by petition cannot be repealed or amended except by a vote of the people; and

WHEREAS, elections are costly and the Thurston County Auditor's Office has estimated the cost of the April election to be \$115,000; and

WHEREAS, the City Council has afforded an opportunity for parties opposed to and in support of the ballot proposition to speak before the City Council; and

WHEREAS, the City Council finds that it is in the best interests of its residents and the City to express its collective position in opposition to Initiative No. 1;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUMWATER AS FOLLOWS:

Section 1. Opposition. The Tumwater City Council hereby opposes Initiative No. 1 which will be presented to voters on the April 24, 2018 Special Election Ballot.

Section 2. The City of Tumwater City Council hereby urges citizens of Tumwater to vote no on Initiative No. 1 relating to the regulation of consumer fireworks on April 24, 2018.

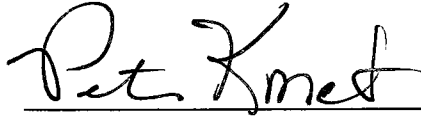
Section 3. Ratification. Any act consistent with the authority and prior to the effective date of this Resolution is hereby ratified and affirmed.

Section 4. Severability. The provisions of this Resolution are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this Resolution or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the Resolution, or the validity of its application to other persons or circumstances.

Section 5. Effective Date. This Resolution shall become effective immediately upon adoption and signature as provided by law.

RESOLVED this 3rd day of April, 2018.

CITY OF TUMWATER

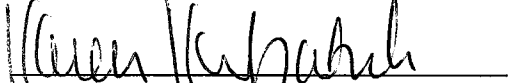


Pete Kmet, Mayor

ATTEST:


Melody Valiant, City Clerk

APPROVED AS TO FORM:


Karen Kirkpatrick, City Attorney