



City of Oregon City

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Staff Report

File Number: 14-200

Agenda Date: 4/2/2014

Status: Public Hearing

To: City Commission

Agenda #: 6a.

From: City Attorney Ed Sullivan

File Type: Ordinance

SUBJECT:

Ordinance for Introduction, No. 14-1005, Declaring a Moratorium on Medical Marijuana Facilities, and Declaring an Emergency

RECOMMENDED ACTION (Motion):

Staff recommends approval of the first reading of ordinance No. 14-1005, declaring a moratorium on medical marijuana facilities and declaring an emergency.

BACKGROUND:

In 2013, the Oregon Legislature passed House Bill 3460, the Oregon Medical Marijuana Act, authorizing the location of marijuana dispensaries throughout the state. However, because of the way the bill was written and because of the federal prohibition on the sale of marijuana, it is unclear if cities are allowed to ban or otherwise regulate the location of medical marijuana dispensaries. The League of Oregon Cities' Legislative Alert states: "The Oregon Supreme Court has already noted a preemption of the Oregon Medical Marijuana Act in a previous ruling and it is unlikely that a court would find that cities must allow or participate in a violation of the federal Controlled Substance Act." Many cities and counties across the state are taking various actions to ban or regulate medical marijuana facilities given the current legal uncertainties at the state and federal levels. Because of this uncertainty, the Oregon Legislature recently passed Senate Bill 1531, which explicitly grants cities and counties the authority to declare a moratorium over such facilities so long as it notifies the Oregon Health Authority of such moratorium by May 1, 2014.

The ability to establish a marijuana dispensing facility per HB 3460 became effective March 1, 2014 and such uses are not specifically listed in the Oregon City Municipal Code. In order to address this omission and also to take advantage of the moratorium authorization, the Commission's action must take effect no later than May 1, 2014. For these reasons, the Commission should declare an emergency.