

ORDINANCE NO. 858**AN ORDINANCE OF THE CITY OF MADRAS DECLARING A MORATORIUM ON MEDICAL MARIJUANA FACILITIES.**

WHEREAS, the Oregon Legislature enacted House Bill 3460 (2013) which requires the Oregon Health Authority to develop and implement a process to register medical marijuana facilities; and

WHEREAS, House Bill 3460 (2013) directed that persons who operate or are employed by a registered medical marijuana facility would enjoy immunity from state prosecution; and

WHEREAS, the issue of whether a local government believes a certain type of business should operate within its jurisdictional limits is a local government decision, the enforcement of which is subject to the general and police powers of that jurisdiction; and

WHEREAS, the Oregon Legislature enacted Senate Bill 1531 (2014) which removes immunity from state prosecution for a person who is responsible for or employed by a registered medical marijuana facility located in an area subject to the jurisdiction of a city or county that enacts a moratorium prohibiting the operation of a medical marijuana facility; and

WHEREAS, the Madras City Council (the "City Council") believes it is in the best interests of the health, safety, and welfare of the citizens of the City of Madras ("City") to enact such a moratorium prohibiting the operation of medical marijuana facilities within City's jurisdictional boundaries (the "Moratorium").

NOW, THEREFORE, the City of Madras ordains as follows:

SECTION 1: FINDINGS. The above-stated findings are hereby adopted.

SECTION 2: SHORT TITLE. This Ordinance No. 858 (this "Ordinance") may be referred to and cited as the "Medical Marijuana Moratorium Ordinance."

SECTION 3: MORATORIUM DECLARED. City hereby prohibits the operation of any medical marijuana facility in any area subject to the jurisdiction of City. As used in this Section 3, "medical marijuana facility" includes any facility that dispenses Marijuana pursuant to ORS 475.314, or any other provision of Oregon law.

SECTION 4: DURATION OF MORATORIUM. The Moratorium imposed by this Ordinance will be effective until May 1, 2015, unless rescinded sooner.

SECTION 5: APPLICATION OF MORATORIUM. The Moratorium imposed by this Ordinance will apply to any decision, action, and/or recommendation by City, including, without limitation, the issuance of building permits, land use permits, business and other regulatory licenses, and/or any other form of approval. This Moratorium extends to any decision by the Oregon Health Authority ("the "OHA") acting under ORS 475.314, as amended.

SECTION 6: ENFORCEMENT. This Moratorium will be enforced by any sworn peace officer authorized to enforce the laws of City and any other city official authorized to administer City's land use, development, nuisance, and/or building regulations. In addition, City may initiate appropriate suit or legal action in a court of competent jurisdiction to enforce this Ordinance.

SECTION 7: PENALTY. A person who violates this Ordinance commits a civil infraction and will be subject to a fine of up to \$500.00. Each violation, and each day that a violation continues, constitutes a separate civil infraction.

SECTION 8: REMEDIES. The remedies available under this Ordinance and Senate Bill 1531 (2014) for a violation of the Moratorium imposed by this Ordinance are not exclusive of any other remedies available under any applicable federal, state, and/or local laws, regulations, and/or ordinances. It is within the discretion of City to seek cumulative remedies for a violation of the Moratorium imposed by this Ordinance.

SECTION 9: NOTICE TO OHA. City's City Administrator or City Attorney will notify the OHA of City's adoption of this Ordinance in a manner prescribed by the OHA.

SECTION 10: SEVERABILITY; CORRECTIONS. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by order of the City Council to cure editorial and/or clerical errors.

Passed by the Council and signed by the Mayor on April 22, 2014.