

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL

ORDINANCE NO. 14- 04

AN ORDINANCE RELATING TO MEDICAL MARIJUANA FACILITIES;
ESTABLISHING NEW TIGARD MUNICIPAL CODE CHAPTER 5.24; AND
DECLARING AN EMERGENCY.

WHEREAS, during the 2013 Special Session, the Oregon Legislature passed HB 3460, which allows for the establishment and licensing of medical marijuana facilities; and

WHEREAS, the Oregon Health Authority is charged with formulating administrative rules governing the licensing of medical marijuana facilities and will begin accepting applications for their operation in March, 2014; and

WHEREAS, the Federal Controlled Substances Act established cannabis (marijuana) as a Schedule I controlled substance, a category reserved for substances with no currently accepted medical uses in the United States, a lack of accepted safety protocols for use under medical supervision, and possessing a high potential for abuse; and

WHEREAS, Subsection 18.210.030.A of the Tigard Development Code requires each development and use application to be consistent with all applicable state and federal laws and regulations; and

WHEREAS, this conflict between state and federal law creates uncertainty about the authority of cities to regulate medical marijuana facilities within their boundaries and in compliance with both federal and state law; and

WHEREAS, City Council desires time to determine the impacts of the rules adopted by the State of Oregon; to gather public input about siting of facilities within the city; understand the potential community impacts; and to consider zoning regulations and policy options related to siting medical marijuana facilities in compliance with state and federal law; and

WHEREAS, pursuant to Article XI, section 2 of the Oregon Constitution, the City of Tigard is a "home rule" municipal corporation having the authority that the constitution, statutes, and common law of the United States and this State expressly or implicitly grant or allow over the civil affairs of its City;

NOW THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Tigard Municipal Code Chapter 5.24 is added to Tigard Municipal Code Title 5 to read as follows:

5.24 Medical Marijuana Facilities

5.24.010. Purpose and Intent. The purpose of this Section is to temporarily prohibit medical marijuana facilities licensed by the State of Oregon from operating within the City of Tigard to allow the City Council time to consider and adopt proper zoning or other regulations for medical marijuana facilities. The State of Oregon is set to grant licenses to medical marijuana facilities in March 2014. The City Council finds that March, 2014, is too soon to provide adequate time to consider the issues related to medical marijuana facilities, seek public input, and adopt proper regulations. Therefore, the City Council is implementing this prohibition to provide time to review the State of Oregon's medical marijuana facilities licensing rules and consider the zoning issues related to the impacts of medical marijuana facilities in the City of Tigard.

5.24.020. Definitions. Except where the context specifically requires otherwise, as used in this Chapter, the following words and phrases mean:

(A) "Building" means any structure having a roof supported by columns or walls, for the housing, shelter or enclosure of persons, animals, chattels, or property of any kind.

(B) "Location" means any parcel of land, whether vacant or occupied by a building, group of buildings, or accessory buildings, and includes the buildings, structures, yards, open spaces, lot width, and lot area.

(C) "Medical marijuana facility" means a medical marijuana facility licensed by the State of Oregon under HB 3460 and/or ORS 475.300-475.346, including future amendments thereto.

(D) "Structure" means anything which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

5.24.030. Prohibited Activities. It is unlawful to establish, operate, use, or to cause or permit the establishment, operation, or use of a medical marijuana facility within the City of Tigard.

5.24.040. City Employees Have No Authority to Permit Medical Marijuana Facilities. The use of any building, structure, location, premises, or land for

a medical marijuana facility is not currently enumerated in the City of Tigard Municipal or Development Codes as a permitted use in any zoning district. Neither the City Manager nor any city employees is authorized to determine or permit the use of any building, structure, location, premises, or land as a medical marijuana facility in any zoning district.

5.24.050. Violations.

(A) A person who violates this Chapter commits a civil infraction and shall be subject to a fine of up to \$500. Each violation, and each day that a violation continues, constitutes a separate civil infraction.

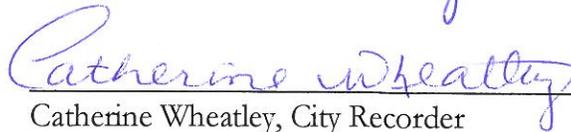
(B) The civil infraction procedures in TMC 1.16 apply to the prosecution of any violation of this Chapter.

SECTION 2: Severability. Each section of this ordinance, and any part thereof, is severable. If any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance shall remain in full force and effect.

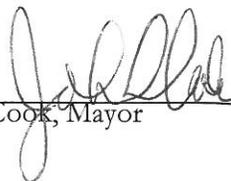
SECTION 3: Emergency. With the state set to issue licenses to medical marijuana facilities beginning in March 2014, this ordinance is necessary for the immediate protection of the public peace, health, safety and welfare and shall take effect immediately upon adoption.

SECTION 4: Ordinance Automatically Expires. This ordinance automatically expires and is to be deemed repealed at 11:59:59 p.m. on December 31, 2014, unless sooner repealed or extended by City Council ordinance.

PASSED: By majority vote of all Council members present after being read by number and title only, this 11th day of February, 2014.


Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this 11th day of February, 2014.


John L. Cook, Mayor

Approved as to form:



City Attorney

2.9.2014

Date