

ORDINANCE NO. 2014-04

AN ORDINANCE OF THE CITY OF LA PINE DECLARING A MORATORIUM ON MEDICAL MARIJUANA FACILITIES; AND DECLARING AN EMERGENCY

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;

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;

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;

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 La Pine 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 La Pine ("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 La Pine ordains as follows:

1. Findings. The above-stated findings are hereby adopted.
2. Short Title. This Ordinance No. 2014-04 (this "Ordinance") may be referred to and cited as the "Medical Marijuana Moratorium Ordinance."
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.
4. Duration of Moratorium. The Moratorium imposed by this Ordinance will be effective until May 1, 2015, unless rescinded sooner.
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 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.
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.

7. Penalties. Any 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.

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.

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.

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.

11. Emergency. The City Council finds that passage of this Ordinance is necessary for the immediate preservation of the peace, health, and safety of City's citizens. The City Council further finds that a delay of thirty (30) days prior to the effective date of this Ordinance may result in acts, omissions, and/or conditions detrimental to City and the public welfare. Therefore, an emergency is declared to exist and this Ordinance will be in full force and effect upon its passage and adoption by the City Council and approval of the mayor.

This Ordinance was PASSED and ADOPTED by the City Council by a vote of ___ for and ___ against and APPROVED by the mayor on this 23rd day of April, 2014.

Ken Mullenex, Mayor

ATTEST:

Richard L. Allen, Interim City Manager