

ORDINANCE NO. 2015-08

AN ORDINANCE OF THE CITY OF LA PINE PROHIBITING THE SALE OF LIMITED MARIJUANA RETAIL PRODUCTS FROM MEDICAL MARIJUANA DISPENSARIES; AND DECLARING AN EMERGENCY

WHEREAS, Section 2, Chapter 784, Oregon Laws 2015 (Senate Bill 460) allows medical marijuana dispensaries to sell limited marijuana retail product to persons at least 21 years of age, beginning October 1, 2015; and

WHEREAS, Subsection (3) of that section provides that a "city . . . may adopt ordinances prohibiting the sale of limited marijuana retail product . . . in the area subject to the jurisdiction of the city"; 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 City Council (the "Council") of the City of La Pine ("City") believes it is in the best interests of the health, safety, and welfare of City's citizens to prohibit (ban) medical marijuana dispensaries from selling limited marijuana retail product within City's jurisdictional limits.

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. 2015-08 may be referred to as the "Marijuana Early Sales Banning Ordinance" and will be cited and referred to herein as this "Ordinance."
3. Purpose. The purpose of this Ordinance is to minimize any adverse public safety and health impacts that may result from allowing medical marijuana dispensaries to sell recreational marijuana.
4. Limited Marijuana Retail Product Sales Prohibited. City hereby prohibits (bans) the sale of limited marijuana retail product through medical marijuana dispensaries in any area subject to City's jurisdiction. "Limited marijuana retail product" means the seeds of marijuana, the dried leaves and flowers of marijuana, and a marijuana plant that is not flowering. City's city manager or city attorney will notify the Oregon Health Authority and/or the Oregon Liquor Control Commission of City's adoption of this Ordinance (and will provide the text of this Ordinance).
5. Enforcement; Penalties. The ban imposed under this Ordinance will be enforced by any sworn peace officer authorized to enforce the laws of City and/or any other City official authorized to administer City's land use, development, nuisance, building, and/or other regulations. In addition, City may initiate appropriate suit or legal action in a court of competent jurisdiction to enforce this Ordinance. Any violation of this Ordinance is punishable by a fine not to exceed \$500.00 per violation. City will be entitled to collect from any person violating this Ordinance City's attorney fees and other fees, costs, and expenses incurred by City to enforce this Ordinance. Each violation, and each day that a violation continues, constitutes a separate civil infraction. The remedies available under 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 City's discretion to seek cumulative remedies for a violation of this Ordinance.

6. Interpretation; Severability; Errors. This Ordinance supersedes all City ordinances, resolutions, and/or policies to the extent such ordinances, resolutions, and/or policies are in conflict with this Ordinance. All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. Any reference to a particular law, rule, regulation, code, or ordinance includes the law, rule, regulation, code, or ordinance as now in force and which may hereafter be amended. The provisions of this Ordinance are hereby declared to be severable. 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 Council to cure editorial and/or clerical errors.

7. Emergency Declaration. The Council finds that passage of this Ordinance is necessary for the immediate preservation of the peace, health, and safety of City's citizens. The 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 Council and approval of the mayor.

This Ordinance was PASSED and ADOPTED by the La Pine City Council by a vote of 3 for and 0 against and APPROVED by the mayor on this 9 day of September, 2015.



Ken Mulenex, Mayor

ATTEST:



Richard L. Allen, City Manager