

ORDINANCE NO. 242

AN ORDINANCE OF THE CITY DETROIT, OREGON TEMPORARILY PROHIBITING THE ESTABLISHMENT OF MARIJUANA FACILITIES WITHIN THE CITY AND DECLARING AN EMERGENCY.

WHEREAS, House Bill 3460 (2013) requires medical marijuana dispensaries to register with the Oregon Health Authority and establishes rules for the State of Oregon’s regulation of medical marijuana dispensaries.

WHEREAS, Senate Bill 1531 (2014) placed additional restrictions on medical marijuana dispensaries and expressly permitted cities to impose a temporary prohibition on the operation of registered medical marijuana facilities within city limits.

WHEREAS, Ballot Measure 91, which Oregon voters approved in November 2014, permits the manufacturing, distribution, sale, possession and use of recreational marijuana in Oregon.

WHEREAS, House Bill 3400 (2015) expressly permits local jurisdictions to prohibit the establishment of marijuana facilities within their jurisdictional limits and the City of Detroit desires to impose such limits pursuant to this authority.

WHEREAS, House Bill 3400 (2015) expressly permits local jurisdictions to adopt reasonable zoning and other regulations on all marijuana facilities, including medical marijuana grow sites.

WHEREAS, the city believes House Bill 3400 is not the only source of authority for the city to prohibit the establishment of marijuana facilities.

WHEREAS, the city desires to temporarily prohibit marijuana facilities while the city considers and adopts proper zoning and other regulations for marijuana facilities.

WHEREAS, the city finds the public health, safety and general welfare of the city, its residents and its visitors necessitates and requires the adoption of this ordinance prohibiting the establishment and operation of marijuana facilities within city limits and for it to take effect immediately upon its adoption.

NOW, THEREFORE, THE CITY OF DETROIT ORDAINS AS FOLLOWS:

Section 1. The City of Detroit, Oregon adopts the following temporary prohibition on marijuana facilities:

- A. Prohibition. No person, business or entity may establish a marijuana facility within city limits. The establishment, maintenance, or operation of a marijuana facility by a person, business or any other entity within the city in violation of this chapter is declared to be a public nuisance.
- B. Definitions. For the purposes of this chapter and in accordance with HB 3400, a “marijuana facility” includes:
 - 1. Marijuana processing sites registered with the Oregon Health Authority;
 - 2. Medical marijuana dispensaries registered with the Oregon Health Authority;
 - 3. Marijuana producers licensed by the Oregon Liquor Control Commission;
 - 4. Marijuana processors licensed by the Oregon Liquor Control Commission;
 - 5. Marijuana wholesalers licensed by the Oregon Liquor Control Commission; and
 - 6. Marijuana retailers licensed by the Oregon Liquor Control Commission.

C. Violations and Enforcement.

1. The establishment, maintenance or operation of a marijuana facility by a person, business or any other entity within the city in violation of the requirements of this chapter is declared to be a nuisance and will be subject to any and all enforcement remedies available to the city under law and/or the City of Detroit Municipal Code including but not limited to enforcement pursuant to Ordinance No. 207 The City of Detroit Enforcement Ordinance, and/or the filing of an appropriate action and pursuit of an appropriate remedy in a court of competent jurisdiction. This prohibition shall not apply to a business operating legally within the City at the time this Ordinance is enacted.
2. The city may abate a nuisance under Chapter 8.08.120 of the City of Detroit Municipal Code or it may pursue any other remedies available to it, including but not limited to an action seeking declaratory relief and/or injunctive relief.
3. If the city brings an action in either law or equity in any of the courts of this state (including the U.S. District Court for the District of Oregon) other than its Municipal Court for the enforcement of this Chapter, the city shall be entitled to the award of its reasonable attorney fees in the event it is the prevailing party.

Section 2. In accordance with HB 3400, staff is directed to provide a copy of this ordinance to the Oregon Health Authority and to the Oregon Liquor Control Commission in a form and manner that those entities may require.

Section 3. This ordinance being necessary for the immediate preservation of public peace, health, and safety is effective immediately and will expire on June 30, 2016, or when the city adopts zoning and other regulations for marijuana facilities, whichever comes first.

First read before the City Council of the City of Detroit on January 12, 2016
Second reading by title before the City Council of the City of Detroit on January 12, 2016

Passed by the Common Council of the City of Detroit, Oregon, this 12th day of January 2016

Ayes_____ Nays_____ Absent_____

Signed:

Mayor

Attest:

Approved as to form:

Christine Pavoni, City Recorder

Wallace W. Lien, City Attorney