

ORDINANCE NO. 1368-14

AN ORDINANCE RELATING TO MEDICAL MARIJUANA FACILITIES;
ESTABLISHING NEW TUALATIN MUNICIPAL CODE CHAPTER 9-08; 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

WHEREAS, pursuant to Article XI, section 2 of the Oregon Constitution, the City of Tualatin has "home rule" authority over the civil affairs of its City; and

WHEREAS, the Tualatin Municipal and Development Codes do not recognize medical marijuana facilities as a permitted use in any zoning district; and

WHEREAS, the City Council believes that the operation of medical marijuana facilities without proper zoning regulations endangers the health, safety, and welfare of its citizens; and

WHEREAS, City Council is interested in preventing medical marijuana facilities from operating in Tualatin until such time as City Council can review and enact adequate zoning regulations;

NOW THEREFORE, THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. Tualatin Municipal Code Section 9-08 is added to Chapter 9 to read as follows:

TMC 9-08-010. Purpose and Intent. The purpose of this Section is to prohibit medical marijuana facilities licensed by the State of Oregon from operating within the City of Tualatin as a temporary measure in order to allow the City Council time to consider and adopt proper zoning 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 Tualatin:

TMC 9-08-020. Definitions. Except where the context specifically requires otherwise, as used in this Chapter, the following words and phrases mean:

(1) "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.

(2) "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.

(3) "Medical marijuana facility" means a medical marijuana facility licensed by the State of Oregon under HB 3460 and/or ORS 475.300-475.346.

(4) "Structure" means anything constructed or erected which is supported directly or indirectly on the earth.

TMC 9-08-030. Prohibited Activities. It is unlawful to establish, operate, use, or to cause or permit the establishment, operation, or use of a medical marijuana facility.

TMC 9-08-040. 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 Tualatin Municipal or Development Codes as a permitted use in any zoning district. The City Manager and all city employees do not have authority to determine or permit the use of any building, structure, location, premises, or land as a medical marijuana facility in any zoning district.

TMC 9-08-050. Violations.

(1) 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.

(2) The civil infraction procedures in TMC 7-1 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. 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.

Adopted by the City Council this 24 Day of February, 2014.

CITY OF TUALATIN, OREGON

BY [Signature]
Mayor

APPROVED AS TO FORM

BY [Signature]
City Attorney

ATTEST:

BY [Signature]
City Recorder