

ORDINANCE NO. 967

AN ORDINANCE ESTABLISHING STAYTON MUNICIPAL CODE (SMC) TITLE 5, CHAPTER 12, WHICH INCLUDES 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 Oregon Legislature enacted Senate Bill 1531 (2014) which affirmatively afforded Oregon cities the ability to impose a moratorium on medical marijuana dispensaries to locate within their boundaries until May 1, 2015;

WHEREAS, Senate Bill 1531 (2014) removes immunity from state prosecution for 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;

WHEREAS, the issue of whether the City of Stayton determines 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 the City of Stayton;

WHEREAS, the Stayton City Council finds that legal uncertainty surrounds the ability/authority of the State to allow for the location of medical marijuana dispensaries in Oregon cities where to do so arguably violates federal law; SMC 5.08 was previously amended to include licensing of medical marijuana dispensaries subject to federal law and the present SMC 5.12.010 shall be revoked;

WHEREAS, the Stayton City Council desires to establish a Chapter in the SMC that specifically recognizes medical marijuana dispensaries which may be regulated at such time as the law in the area is clarified;

WHEREAS, the Stayton City Council deems that it is in the best interests of the health, safety and welfare of the citizens of Stayton to include in the SMC a moratorium prohibiting the operation of a medical marijuana facilities within the jurisdictional boundaries of the City Stayton so as to provide time to examine the range of options surrounding the regulation or prohibition of medical marijuana facilities within Stayton;

WHEREAS, it is the City's Council's desire to add to Stayton Municipal Code Title 5 by establishing Chapter 5.12 Medical Marijuana Dispensaries/Facilities; and,

WHEREAS, it is appropriate that an emergency be declared as to the enactment of this Ordinance as it is necessary for the immediate preservation of the public peace, health and safety, and due to the deadlines placed into effect by state law. This Ordinance takes effect on its

passage so that it is in full force and effect immediately from and after its enactment by the Stayton City Council.

NOW THEREFORE, the City of Stayton ordains:

SECTION 1: Revoking the present SMC 5.12.010. Stayton Municipal Code Title 5, Chapter 5.12 Medical Marijuana Dispensaries/Facilities is hereby established to read:

CHAPTER 5.12

MEDICAL MARIJUANA DISPENSARIES/FACILITIES

SECTIONS

5.12.010	Purpose
5.12.020	Definitions
5.12.030	Moratorium Declared
5.12.030A	Declaration
5.12.030B	Effective Date
5.12.030C	Remedies Not Exclusive
5.12.040	Enforcement
5.12.050	Severability

5.12.10 PURPOSE

The purpose of this Chapter is to put into place reasonable regulations to govern Medical Marijuana Dispensaries or Facilities as allowed by state law. State law also allows for local government to place a temporary moratorium on medical marijuana dispensaries/facilities.

5.12.20 DEFINITIONS

For the purposes of this Chapter, the following words and phrases mean:

MEDICAL MARIJUANA FACILITY: Any facility that dispenses marijuana pursuant to ORS 475.314 or other related provision of Oregon law.

5.12.030 MORATORIUM DECLARED

- A. **DECLARATION:** The City of Stayton hereby declares a moratorium prohibiting the operation of any medical marijuana facility or dispensary in any area subject to the jurisdiction of the City of Stayton as the areas now exist or may be expanded.
- B. **EFFECTIVE DATE:** The moratorium imposed hereby is effective from and after the enactment of this Chapter and continues until May 1, 2015, unless otherwise lawfully rescinded or extended.
- C. **REMEDIES NOT EXCLUSIVE:** The remedies available under Senate Bill 1531 (2014) for a violation of the moratorium imposed by SMC Chapter 5.12 are not

exclusive of any other remedies available under any applicable federal, state or local law. It is within the discretion of the City of Stayton to seek cumulative remedies for a violation of the moratorium imposed by this Chapter. Violations of this Chapter may be enforced according to SMC Chapter 5.08.

5.12.40 ENFORCEMENT

- A. The Chief of Police is charged with the enforcement of the provisions of this Chapter.
- B. The Chief of Police is charged with enforcement of the moratorium.

5.12.50 SEVERABILITY

If any provision(s) of this Chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.

SECTION 2: OREGON HEALTH AUTHORITY NOTICE. A copy of this Ordinance shall be forwarded to the Oregon Health Authority by regular mail and by any other such means as required by rule of the Oregon Health Authority.

SECTION 3: Upon enactment by the Stayton City Council and the Mayor's signature, the Ordinance shall become effective immediately.

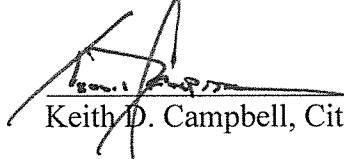
ADOPTED BY THE STAYTON CITY COUNCIL this 7th day of April, 2014.

CITY OF STAYTON

Signed: 4/7, 2014

BY: 
A. Scott Vigil, Mayor

Signed: 4/7, 2014

ATTEST: 
Keith D. Campbell, City Administrator

APPROVED AS TO FORM:


David A. Rhoten, City Attorney

