

Medical Marijuana Facility Moratorium Ordinance

Introduction

In March 2014, the Oregon Legislature passed Senate Bill 1531, which purports to restrict local government regulation of medical marijuana facilities to only time, place and manner restrictions, unless a city or county enacts an ordinance declaring a moratorium and notifies the Oregon Health Authority of such moratorium by May 1, 2014. SB 1531 limits the moratorium to May 1, 2015, after which it is replaced by the time, place and manner restrictions.

Pursuant to SB 1531, the moratorium represents an exercise of the home rule authority and police powers to prohibit certain activities within the territorial limits of the city. Pursuant to SB 1531, the moratorium has the additional effect of removing the immunity provisions of the Oregon Medical Marijuana Act for anyone operating a medical marijuana facility in an area of a moratorium, notwithstanding that they may be a medical marijuana card holder or previously registered with the Oregon Health Authority under ORS 475.314.

It is important to note that jurisdictions that adopt a moratorium type ordinance prior to the effective date of SB 1531 are advised to consult with legal counsel to determine the adequacy of the prior enactment and its relationship to SB 1531.

Rainier Ordinances

ORDINANCE NO. 1063

AN ORDINANCE OF THE CITY OF RAINIER 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 City Council believes it is in the best interest of the health, safety and welfare of the citizens of Rainier to enact such a moratorium prohibiting the operation of medical marijuana facilities within the jurisdictional boundaries of Rainier;

MORATORIUM DECLARED. The City of Rainier hereby prohibits the operation of any medical marijuana facility in any area subject to the jurisdiction of the City of Rainier. As used in this section, "medical marijuana facility" includes any facility that dispenses marijuana pursuant to ORS 475.314 or any other provision of Oregon law.

DURATION OF MORATORIUM. The moratorium imposed by this ordinance shall be effective until May 1, 2015, unless rescinded sooner.

ENFORCEMENT. The Chief of Police is charged with enforcement of the moratorium.

REMEDIES NOT EXCLUSIVE. The remedies available under 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 or local law. It is within the discretion of the City of Rainier to seek cumulative remedies for a violation of the moratorium imposed by this ordinance.

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

EMERGENCY. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

ENACTED THIS ____ day of _____, 2014, by the City Council of the City of Rainier and signed by the Mayor on the ____ day of _____, 2014.

CITY OF RAINIER

APPROVED AS TO FORM:

BY: _____
Jerry Cole, Mayor

BY: _____
Stephen D. Petersen,
City Attorney

ATTEST:

BY: _____
Debra Dudley,

City Administrator/ Finance Director/ City Recorder