

PROPOSED ORDINANCE (REVISED)

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Enacting a Temporary Moratorium)
on Medical and Recreational Marijuana Facilities) ORDINANCE NO. 2015-3
within the Jurisdiction of Columbia County and)
Declaring an Emergency)

The Board of County Commissioners for Columbia County, Oregon ordains as follows:

SECTION 1. TITLE.

This Ordinance shall be known as Ordinance No. 2015-3.

SECTION 2. AUTHORITY.

This Ordinance is adopted pursuant to the powers of Columbia County under ORS 197.520, ORS 203.035, the Oregon Constitution, and the federal Controlled Substances Act, 21 U.S.C. § 801 *et seq.*

SECTION 3. PURPOSE.

The purpose of this Ordinance is to impose a temporary moratorium in accordance with ORS 197.520 on the establishment of new and expansion of existing marijuana facilities in any area within the jurisdiction of Columbia County. The purpose of the temporary moratorium is to delay development of County land use regulations for recreational and medical marijuana until the state regulations have been adopted. The moratorium will therefore allow the County to develop comprehensive zoning regulations that are consistent with state regulations for both recreational and medical marijuana. Furthermore, by waiting until the state regulations are adopted, the County seeks to avoid adopting land use regulations that would have to be immediately revisited to comply with state regulations.

SECTION 4. HISTORY.

In the coming months, Oregon will gain a second regulatory program for marijuana. The first is an existing program for medical marijuana, which was approved by the voters in 1998 and is governed by the Oregon Medical Marijuana Act (“OMMA”), *codified* at ORS 475.300 *et seq.* The Oregon Health Authority administers the OMMA. In 2013, House Bill 3460 required the Oregon Health Authority to adopt regulations for the registration of medical marijuana dispensaries. Shortly thereafter, Senate Bill 1531-C was enacted, which specifically allowed local governments to adopt a temporary moratorium on the operation of medical marijuana

dispensaries. Columbia County adopted such a moratorium on medical marijuana dispensaries on April 9, 2014 (Ordinance No. 2014-5). That moratorium will expire on May 1, 2015.

Oregon's second marijuana program was approved by the voters in November 2014 through Ballot Measure 91, which legalizes recreational marijuana. The recreational marijuana program will be administered by the Oregon Liquor Control Commission ("OLCC") in accordance with Measure 91. OLCC is currently developing rules to implement the program, which will go into effect initially on July 1, 2015, with the allowance of personal use and possession of recreational marijuana and then on January 4, 2016, when OLCC must begin accepting license applications to produce and sell marijuana. OLCC's rules will thus likely be adopted by January 4, 2016. In addition to OLCC's rules, the state legislature has proposed several bills, which if adopted may affect state law and regulation for both the recreational and medical marijuana programs as well as local government authority to regulate the programs.

In sum, Oregon's two marijuana programs will be administered by two different state agencies under two separate and distinct regulatory frameworks. The regulations implementing recreational marijuana are not yet developed, and regulations implementing medical marijuana will likely be amended by the current state legislature. However, regulations affecting both programs should be solidified in the coming months.

SECTION 5. MORATORIUM DECLARED

~~The establishment of new and expansion of existing medical marijuana facilities and recreational marijuana facilities shall be prohibited within the unincorporated boundaries of Columbia County. As used in this Ordinance, "marijuana facilities" means:~~

~~A. Outdoor areas indoors or outdoors used for growing, cultivating, dispensing, selling, processing, producing, or wholesaling marijuana whether for medical or recreational purposes; and~~

~~B. Any facility that dispenses marijuana pursuant to ORS 475.314 or any other provision of Oregon law.~~

In support of this temporary moratorium, the County adopts the findings in the Staff Report dated March 20, 2015, which is attached hereto as Exhibit A and incorporated herein by this reference.

SECTION 6. DURATION OF MORATORIUM

The moratorium imposed by this Ordinance shall be effective until August 27, 2015. The moratorium may be extended by Board Order in accordance with ORS 197.520(4) following a public hearing. The County shall provide at least 14 days' notice of any hearing on an extension

of this moratorium. Notice shall be sent to the Department of Land Conservation and Development; to those who have testified either orally or in writing at public hearing on this Ordinance; and to those who have submitted a written request to receive notice. Notice shall be published in newspapers of general circulation in the County as well as on the County's website.

SECTION 7. ENFORCEMENT

This Ordinance shall be enforceable under the Columbia County Enforcement Ordinance. Violators of this Ordinance are subject to the penalties provided in the Columbia County Enforcement Ordinance. Pursuant to Section 11 of the Enforcement Ordinance, the Columbia County Sheriff and any other person that the Board of Commissioners specifically approves are authorized to issue citations under this Ordinance.

SECTION 8. REMEDIES NOT EXCLUSIVE

The remedies available under the Columbia County Enforcement 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. The County may, in its discretion, seek cumulative remedies for a violation of the moratorium imposed by this Ordinance.

SECTION 9. SEVERABILITY.

If for any reason any court of competent jurisdiction holds any portion of this Ordinance to be invalid, and such holding is upheld on any appeal, such portion shall be deemed a separate, distinct and independent portion. Any such holding shall not affect the validity of the remaining portions.

SECTION 10. SCRIVENER'S ERRORS.

Any scrivener's errors in this Ordinance may be corrected by order of the Board of County Commissioners.

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SECTION 11. 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 shall take effect immediately upon adoption.

DATED this _____ day of April, 2015.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: _____
Henry Heimuller , Chair

By: _____
Anthony Hyde, Commissioner

By: _____
Earl Fisher, Commissioner

Approved as to form

By: _____
Office of County Counsel

Attest

By: _____
Recording Secretary

First Reading: _____

Second Reading: _____

Effective Date: _____