



Agenda Item

February 24, 2014

TO: Honorable Mayor and City Council

FROM: Scott Derickson, City Administrator
N. Robert Shields, City Attorney

SUBJECT: **Medical Marijuana Facility Regulations**

RECOMMENDATION:

It is recommended that the City Council consider the attached ordinance creating a temporary prohibition on medical marijuana dispensaries and asking that the planning commission recommend appropriate zones and conditional permit requirements for the siting of medical marijuana dispensaries within the city limits of Woodburn consistent with state law. The Woodburn Development Ordinance currently does not address medical marijuana dispensaries.

BACKGROUND:

On August 14, 2013 the Governor signed HB 3460 (providing for medical marijuana dispensaries) into law. The provisions of the law that authorize the Oregon Health Authority to register medical marijuana facilities under its administrative rules do not go into effect until March 1, 2014.

HB 3460 will allow medical marijuana dispensaries to be sited under certain restrictions in commercial and agricultural zones and directs the Oregon Health Authority to develop rules to regulate such dispensaries. The law provides little direction to local governments on how to effectively manage community expectations for safety, security, and livability with the opening of these dispensaries.

Community concerns regarding such dispensaries in other states have included their proximity to other businesses and services that could be fundamentally at odds with the dispensaries including such things as; child care/playgrounds, religious facilities, drug/alcohol treatment centers, existing high drug/crime areas, civic services, etc. The statute only restricts their placement within 1,000 feet of a school or another dispensary.

The legal landscape has been clouded further by the 2014 Oregon Legislature's consideration of SB 1531, which at the time of this staff report had been amended to allow local governments to regulate but not ban medical marijuana dispensaries (see attached Newspaper article)

During just the last few weeks a number of Oregon cities have adopted ordinances either: (1) banning medical marijuana dispensaries through the business license process because they are illegal under federal law or (2) initiated the consideration of zoning regulations with a 120 day period where medical marijuana dispensaries are temporarily prohibited.

The following cities have acted to ban medical marijuana dispensaries through their business license process as being inconsistent with federal law:

- Medford
- Gresham
- Fairview
- Tualatin
- Beaverton
- Wilsonville
- Oregon City
- Stayton

The following cities have initiated the consideration of zoning regulations to be completed during a 120 day period where medical marijuana dispensaries are temporarily prohibited:

- Cornelius
- Hillsboro
- Sherwood

DISCUSSION:

If the City Council wants to adopt an ordinance addressing this issue, staff recommends a zoning approach. As mentioned above, at the time of this staff report, the Oregon legislature continues to consider SB 1531, which would allow cities to regulate dispensaries but not ban them. If a zoning approach is taken, it is more defensible than a ban, if the City Council's authority to act is legally contested.

Because of the time sensitivity of this issue, the proposed ordinance contains an emergency clause.

FINANCIAL IMPACT:

None.