

**ORDINANCE NO. 831**

**AN ORDINANCE RELATING TO MEDICAL MARIJUANA FACILITIES;  
ESTABLISHING NEW MUNICIPAL CODE CHAPTER 5.06; AND DECLARING AN  
EMERGENCY**

**THE SCAPPOOSE CITY COUNCIL FINDS AS FOLLOWS:**

**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 began accepting applications for their operation on March 3, 2014; and

**WHEREAS**, during the 2014 Regular Session, the Oregon Legislature passed SB 1531, which limits the ability of cities and counties to regulate medical marijuana facilities to the “reasonable regulations” provided in statute: the hours of operation for medical marijuana facilities, where the facilities may locate within the zones allowed by law, and the manner in which a facility may dispense medical marijuana; and

**WHEREAS**, SB 1531 also allows cities and counties to enact a moratorium on the operation of registered medical marijuana facilities until May 1, 2015, provided the moratorium is adopted no later than May 1, 2014; and

**WHEREAS**, the City Council believes that the operation of a medical marijuana facility has the potential to endanger the health, safety, and welfare of its citizens without adequate local regulation; and

**WHEREAS**, City Council desires time to determine the impacts of the rules adopted by the State of Oregon and pending legislation; gather public input about siting of facilities within the city; understand the potential community impacts; and consider zoning regulations and policy options related to siting medical marijuana facilities in compliance with state and federal law.

**NOW, THEREFORE, THE CITY OF SCAPPOOSE ORDAINS AS FOLLOWS:**

**Section 1.** A new Chapter 5.06 is adopted and added to the City of Scappoose Municipal Code which will read as follows:

5.06 Medical Marijuana Facilities.

5.06.010. Purpose and Intent. The purpose of this Section is to temporarily prohibit medical marijuana facilities licensed by the State of Oregon from operating within the City of Scappoose to allow the City Council time to consider and adopt proper zoning or other regulations for medical marijuana facilities. The State of Oregon began granting licenses to medical marijuana facilities on March 3, 2014. The City Council finds that it 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 issues related to the impacts of medical marijuana facilities in the City of Scappoose.

**Section 2.** A new section 5.06.020 of the City of Scappoose Municipal Code which will read as follows is hereby adopted:

5.06.020. Definitions. Except where the context specifically requires otherwise, as used in this Chapter, the following words and phrases mean:

(A) "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.

(B) "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.

(C) "Medical marijuana facility" means a medical marijuana facility licensed by the State of Oregon under HB 3460 (2013) and/or ORS 475.300 et seq., including future amendments thereto.

(D) "Structure" means anything which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

**Section 3.** A new section 5.06.030 of the City of Scappoose Municipal Code which will read as follows is hereby adopted:

5.06.030. Prohibited Activities. It is unlawful to establish, operate, use, or to cause or permit the establishment, operation, or use of a medical marijuana facility within the City of Scappoose.

**Section 4.** A new section 5.06.040 of the City of Scappoose Municipal Code which will read as follows is hereby adopted:

5.06.040. 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 Scappoose Municipal Code or Development Codes as a permitted use in any zoning district. Neither the City Manager nor any city employee is authorized to determine or permit the use of any building, structure, location, premises, or land as a medical marijuana facility in any zoning district.

**Section 5.** A new section 5.06.050 of the City of Scappoose Municipal Code which will read as follows is hereby adopted:

5.06.050. Violations.

(A) A person who violates this section commits a civil violation and shall be subject to a fine pursuant to section 1.08.010 of the City of Scappoose Municipal Code.

(B) Each violation, and each day that a violation continues, constitutes a separate civil infraction.


**Section 6.** Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

**Section 7.** Ordinance Automatically Expires. This ordinance automatically expires and is to be deemed repealed at 11:59:59 p.m. on April 30, 2015, unless sooner repealed or extended by City Council ordinance.

**Section 8.** Emergency. With the state currently processing applications and the statutory deadline of May 1, 2014 to enact a moratorium, this ordinance is necessary for the immediate protection of the public health, safety and general welfare; therefore, an emergency is declared to exist and this ordinance shall be effective upon the date of its adoption.

**CITY OF SCAPPOOSE, OREGON**

  
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Scott Burge, Mayor

Attest:   
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Susan M. Reeves, MMC  
City Recorder