

ORDINANCE NO. 840

AN ORDINANCE OF THE CITY OF SCAPPOOSE RELATING TO THE LICENSING AND REGULATION OF MEDICAL MARIJUANA FACILITIES AND DECLARING AN EMERGENCY

WHEREAS, the City of Scappoose adopted Ordinance 831 on April 21, 2014, creating Chapter 5.06 of the Scappoose Municipal Code relating to Medical Marijuana Facilities; and

WHEREAS, pursuant to Article XI, Section 2 of the Oregon Constitution, the City of Scappoose is a "home rule" municipal corporation having the authority that the constitution, statutes, and common law of the United States and this State expressly or implicitly grant or allow over the civil affairs of its City; and

WHEREAS, the conditions under which a certain type of commercial conduct should be allowed and regulated within Scappoose is a legislative decision of the City Council and subject to the general and police powers of the City; and

WHEREAS, the City Council of Scappoose desires to regulate the operation of medical marijuana facilities in ways that protect and benefit the public health, safety, and welfare of existing and future residents and businesses of the City; and

WHEREAS, the unique characteristics of medical marijuana facilities and their potential impacts, along with the regulatory gap in the Oregon Health Authority's administrative rules, make it necessary to establish a licensing process for facilities located within Scappoose and to establish reasonable time, place, and manner requirements for such facilities; and

WHEREAS, although the State of Oregon has passed legislation authorizing medical marijuana facilities, such facilities remain illegal under federal law. The City's licensing program attempts to reduce the risk to the public health, safety, and welfare related to medical marijuana facilities and the City's actions shall not be construed as an endorsement of such facilities.

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

Section 1. Chapter 5.06 of the Scappoose Municipal Code shall be amended to read as follows (additional language *italicized* and deleted language ~~stricken~~):

5.06 Medical Marijuana Facilities.

5.06.010. Purpose and Intent. The purpose of this Section is to *create requirements for medical marijuana facilities that protect the public health, safety, and welfare.* ~~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.~~

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

(A) "Applicant" means an agent or owner of a Medical Marijuana Facility.

(B) "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.

(C) "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.

(D) "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.

~~(E) "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.~~

~~5.06.030. Certification Required. Prior to the City issuing a business license pursuant to Section 5.04 of this Code to a medical marijuana facility, the applicant shall certify to the City that the applicant is in compliance with section 5.06.040 of this chapter. 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.~~

5.06.040. Standards of Operation. A medical marijuana facility must comply with the following requirements, in addition to any other state or local requirements:

(A) Registration in good standing with the Oregon Health Authority as a medical marijuana facility pursuant to state law and in compliance with all applicable laws and regulations administered by the Oregon Health Authority for Facilities.

(B) A facility may not have a walk-up window or a drive-through.

(C) Operating hours must be no earlier than 10:00 a.m. or later than 8:00 p.m. on the same day.

(D) The facility must utilize an air filtration and ventilation system that confines all odors associated with the facility to the facility premises.

(E) The facility must not manufacture or produce any extracts, oils, resins, or similar derivatives of marijuana on-site and must not use open flames or gases in the preparation of any products.

(F) The facility shall not be located:

(1) Within 1,000 feet of another medical marijuana facility.

(2) Within 1,000 feet of a public or private elementary, secondary, or career school.

~~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.~~

5.06.045 Subsequent Change in Use. A medical marijuana facility which is in compliance with this Code at the time of issuance of the business license shall be allowed to continue in existence, notwithstanding a subsequent change in use of another property which would otherwise render the medical marijuana facility to be in violation of section 5.06.040(F).

5.06.050. Violations.

~~(A) Violation of this Chapter shall be deemed a civil violation pursuant to Section 5.04.120 of this Code. 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) In addition to all other remedies allowed by this code, operation of a medical marijuana facility within the City in violation of the provisions of this Chapter is hereby declared a public nuisance and shall be abated pursuant to all available remedies. Each violation, and each day that a violation continues, constitutes a separate civil infraction.~~


Section 2. 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 3. Emergency. With the City's moratorium on medical marijuana facilities expiring May 1, 2015, at which time the City will no longer prohibit the siting of medical marijuana facilities, this ordinance is necessary for the immediate protection of 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.

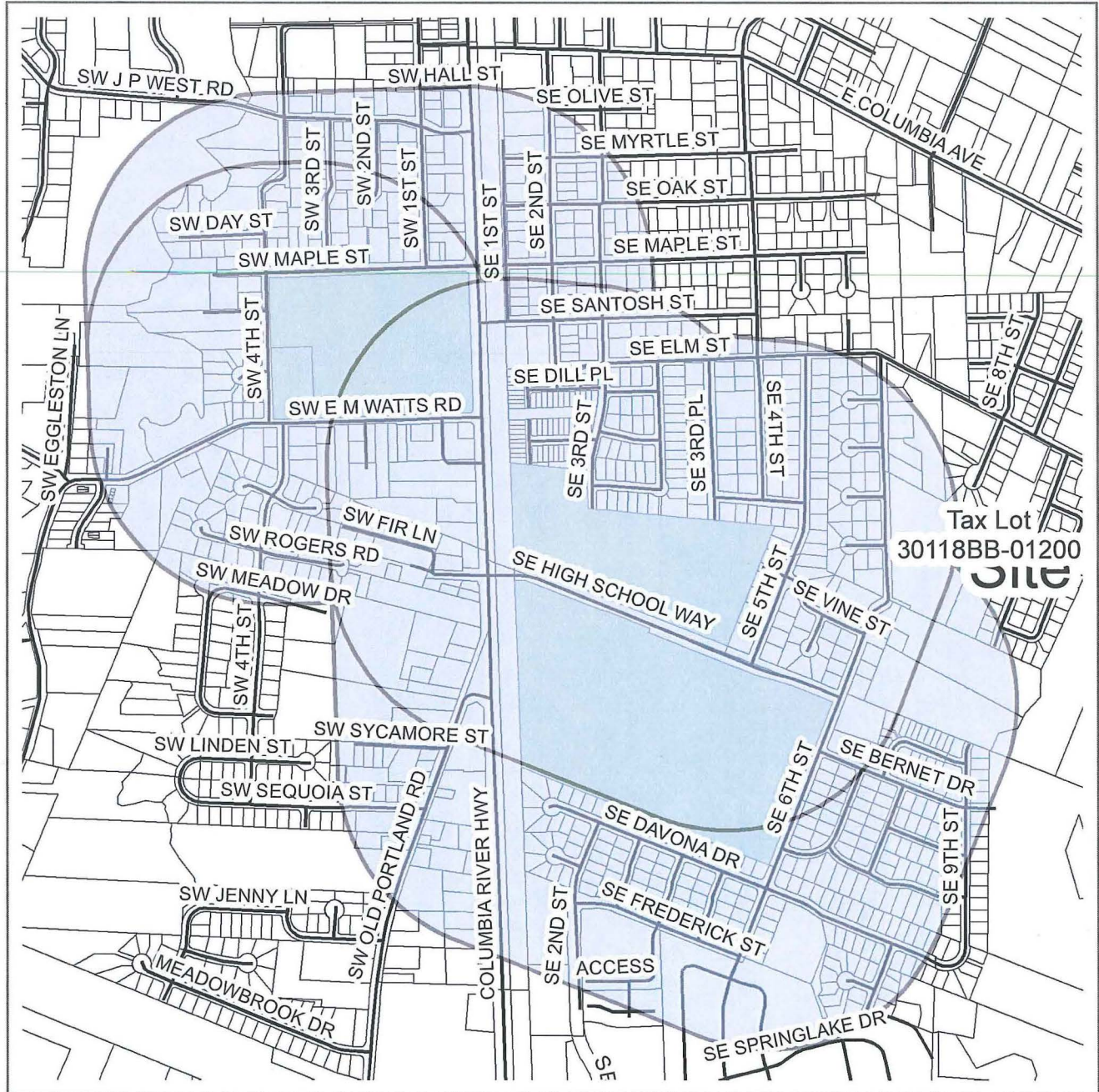
Approved by the City Council of Scappoose this 20th day of April, 2015.

CITY OF SCAPPOOSE, OREGON


Scott Burge, Mayor

Attest: 
Susan M. Reeves, MMC
City Recorder

Exclusionary Zone 1000' from Schools



Tax Lot
30118BB-01200
GIS



SCAPOOSE GIS

Legend

-  Streets
-  Taxlots Boundary

