

**CITY OF DEPOE BAY
ORDINANCE NO. 302**

AN ORDINANCE AMENDING ORDINANCE NO. 243, AN ORDINANCE PROVIDING FOR THE LICENSING OF BUSINESSES, PROFESSIONS, TRADES AND OCCUPATIONS FOR REVENUE PURPOSES; ADDING REGULATIONS FOR MEDICAL MARIJUANA FACILITIES OPERATING WITHIN THE CITY OF DEPOE BAY; REPEALING ORDINANCE NO. 300 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; and

WHEREAS, the issue of whether a certain type of business should operate within a city's jurisdictional limits is a local government decision, the enforcement of which is subject to the general powers of that jurisdiction; and

WHEREAS, the 2014 Oregon Legislature approved Senate Bill 1531, which explicitly allows cities in Oregon to adopt reasonable regulations in addition to State regulations on the operation of medical marijuana facilities; including: reasonable limitations on the hours during which a medical marijuana facility may be operated; reasonable limitations on where a medical marijuana facility may be located within an agricultural, industrial, commercial or mixed use zone; and reasonable conditions on the manner in which a medical marijuana facility may dispense medical marijuana; and

WHEREAS, the City Council finds that the zones where medical marijuana facilities may locate within the City of Depoe Bay under Senate Bill 1531 (2014) are the Retail Commercial Zone (C-1), the Light Industrial Zone (L-I), and the Marine Commercial Zone (M-C); under Senate Bill 1531 (2014), no other zones within the City qualify for location of a medical marijuana facility; and

WHEREAS, the Depoe Bay City Council has determined it is in the best interests of the health, safety and welfare of the citizens of the City of Depoe Bay to enact an ordinance regulating the operation of medical marijuana facilities within the jurisdictional boundaries of the City of Depoe Bay;

NOW, THEREFORE, the City Council of the City of Depoe Bay hereby ordains as follows:

1. Ordinance No. 243 is hereby amended by the addition of the following section, with the section inserted in numerical order and all sections renumbered accordingly:

Section 10. Medical Marijuana Facilities

A. Definition. A medical marijuana facility is a medical marijuana dispensary business required to register with the Oregon Health Authority under ORS 475.314.

B. Location.

1. A medical marijuana facility may not be located within 1,000 feet of Neighbors For Kids located at 634 S. Hwy 101 and further described as Tax Lot 7400 of Lincoln County Assessor Map 09-11-08CA.

2. Pursuant to ORS 475.314, medical marijuana facilities may locate on lots within the Retail Commercial Zone (C-1), the Light Industrial Zone (L-I), and the Marine Commercial Zone (M-C). Pursuant to ORS 475.314, medical marijuana facilities may not locate within other zones.
3. Medical marijuana facilities may not locate on any lot or in any building that also contains a residence or dwelling unit.

C. Drive-Through Access. Drive-through access to a medical marijuana facility shall not be permitted.

D. Business License Required. In addition to all required local, state and/or federal licensing, an annual City of Depoe Bay business license shall be obtained and maintained by a medical marijuana facility. Notice of a business license application for a medical marijuana facility shall be provided in writing to the applicant and to the owners of record of property on the most recent tax assessment roll of Lincoln County within 1,000 feet of the subject property. The business license fee for a medical marijuana facility shall be established by resolution of the Depoe Bay City Council.

E. Hours and Rules of Operation.

1. A medical marijuana facility may be operated 7 days a week, including holidays, between 9:00 a.m. and 8:00 p.m.
2. No minors under the age of 21 are allowed within a medical marijuana facility or premises during hours of operations.
3. No marijuana or marijuana-infused product may be smoked, ingested, or otherwise consumed on the premises, except as may be allowed pursuant to applicable Oregon Health Authority administrative rules governing medical marijuana facilities.
4. All products must be packaged in child-resistant safety packaging, and may not be manufactured, packaged or displayed in a manner that is attractive to minors.
5. No marijuana or consumption paraphernalia shall be displayed or kept in a business so as to be readily visible from the exterior of the licensed premises.
6. Medical marijuana facilities shall employ reasonable measures and means for preventing odors, debris, fluids and other substances from exiting the medical marijuana facility at all times.

F. No City Liability – Indemnification.

1. By accepting a medical marijuana facility business license issued pursuant to this Ordinance, the licensee waives and releases the City, its officers, elected officials, employees, volunteers and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers for a violation of federal, state or local laws and regulations.
2. By accepting a license issued pursuant to this Ordinance, all licensees, jointly and severally, if more than one, agree to indemnify, defend and hold harmless the City, its officers, elected officials, employees, volunteers and agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the medical marijuana facility that is the subject of the license.

G. Compliance with state laws and rules. Medical marijuana facilities shall comply with all applicable state laws and state administrative rules applicable to such facilities, including, but not necessarily limited to, ORS 475.300 through 475.346 and OAR 333-008-1000 through 333-008-1290.

H. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

WHEREAS, the adoption of this Ordinance is necessary to preserve the peace, health, safety and welfare of the citizens of the City of Depoe Bay, an emergency is hereby declared to exist and this ordinance shall be in full force and effect immediately upon its adoption by the City Council of the City of Depoe Bay and approval by the Mayor.

Introduced and passed the first reading in a regular meeting of the City Council of the City of Depoe Bay,

Oregon on this 17th day of March, 2015.

Passed at the second reading, placed on final passage, and adopted by the City Council of the City of

Depoe Bay, Oregon on this 17th day of March, 2015.

Approved by the Mayor of the City of Depoe Bay this 17th day of March, 2015.

CITY OF DEPOE BAY



Mayor

ATTESTED:



City Recorder