

ORDINANCE NO. 1462

AN ORDINANCE ADDING CHAPTER 9.10 TO TITLE NINE OF THE GLADSTONE MUNICIPAL CODE PROHIBITING THE ESTABLISHMENT OF MARIJUANA FACILITIES WITHIN THE CITY AND DECLARING AN EMERGENCY.

WHEREAS, House Bill 3460 (2013) requires medical marijuana dispensaries to register with the Oregon Health Authority and establishes rules for the State of Oregon’s regulation of medical marijuana dispensaries;

WHEREAS, Senate Bill 1531 (2014), placed additional restrictions on medical marijuana dispensaries and expressly permitted cities to impose a temporary moratorium on the operation of registered medical marijuana facilities within city limits;

WHEREAS, Ballot Measure 91, which Oregon voters approved in November 2014, permits the manufacturing, distribution, sale, possession and use of recreational marijuana in Oregon;

WHEREAS, House Bill 3400 (2015) expressly permits local jurisdictions to prohibit the establishment of “marijuana facilities” within their jurisdictional limits and the City of Gladstone desires to impose such limits pursuant to this authority;

WHEREAS, the city believes House Bill 3400 is not the only source of authority for the city to prohibit the establishment of marijuana facilities;

WHEREAS, the city is not repealing Ordinance No. 1446 by adopting this ordinance; and

WHEREAS, the city finds that the public health, safety and general welfare of the city, its residents and its visitors necessitates and requires the adoption of this ordinance prohibiting the establishment and operation of marijuana facilities within city limits and for it to take effect immediately upon its adoption.

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

Section 1. Chapter 9.10 – Prohibition on Marijuana Facilities – is added to Title Nine of the Gladstone Municipal Code to read as follows:

Chapter 9.10 – Prohibition on Marijuana Facilities.

- A. Prohibition. No person, business or entity may establish a marijuana facility within city limits. The establishment, maintenance, or operation of a marijuana facility by a person, business or any other entity within the city in violation of this chapter is declared to be a public nuisance.
- B. Definitions. In accordance with HB 3400, a “marijuana facility” includes:
 - 1. Marijuana processing sites registered with the Oregon Health Authority;
 - 2. Medical marijuana dispensaries registered with the Oregon Health Authority;
 - 3. Marijuana producers licensed by the Oregon Liquor Control Commission;
 - 4. Marijuana processors licensed by the Oregon Liquor Control Commission;

5. Marijuana wholesalers licensed by the Oregon Liquor Control Commission; and
6. Marijuana retailers licensed by the Oregon Liquor Control Commission.

C. Violations and Enforcement.

1. The establishment, maintenance or operation of a marijuana facility by a person, business or any other entity within the city in violation of the requirements of this chapter will be subject to any and all enforcement remedies available to the city under law and/or the Gladstone Municipal Code including but not limited to enforcement pursuant to Chapter 8.04 of the Gladstone Municipal Code and/or the filing of an appropriate action and pursuit of an appropriate remedy in a court of competent jurisdiction.
2. The city may abate a nuisance under this chapter either pursuant to Chapter 8.04 of the Gladstone Municipal Code or it may pursue any other remedies available to it, including but not limited to an action seeking declaratory relief and/or injunctive relief.
3. If the city brings an action in either law or equity in any of the courts of this state (including the U.S. District Court for the District of Oregon) other than its municipal court for the enforcement of this chapter, the city shall be entitled to the award of its reasonable attorney fees in the event it is the prevailing party.

Section 2. In accordance with HB 3400, staff is directed to provide a copy of this ordinance to the Oregon Health Authority and to the Oregon Liquor Control Commission in a form and manner that those entities may require.

Section 3. In accordance with HB 3400, staff is directed to submit this ordinance to the electors of the city for approval at the next statewide general election in November 2016.

Section 4. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance takes effect on September 22, 2015.

THIS ORDINANCE IS ADOPTED BY THE GLADSTONE CITY COUNCIL, IS APPROVED BY THE MAYOR AND IS EFFECTIVE THIS _____ DAY OF _____, 2015.

ATTEST:

Dominick Jacobellis, Mayor

Jolene Morishita, Assistant City Administrator