

CITY OF COOS BAY CITY COUNCIL
Agenda Staff Report

MEETING DATE January 21, 2014	AGENDA ITEM NUMBER
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TO: Mayor Shoji and City Councilors

FROM: Eric Day, Community Development Department
Rodger Craddock, City Manager *RLS*

ISSUE: A moratorium on the acceptance and processing of applications for the issuance of permits related to businesses that seek to dispense medical marijuana.

BACKGROUND:

Recently, City staff have received a number of inquiries from persons interested in opening medical marijuana dispensaries within the City, and it is anticipated that such inquiries will continue to be made from persons interested in opening such businesses. Currently, under the City's adopted Code, medical marijuana dispensaries ("MMD") which constitute retail sales operations are permitted uses in a wide variety of zones, including those that are primarily intended for residential use.

Currently, municipalities throughout Oregon are struggling to gain control over the proliferation of MMD and have enacted various kinds of local regulations in an attempt to curtail impacts under the current medical marijuana laws of the State of Oregon. Coos Bay currently has no land use or business regulations concerning the operation of MMD.

Staff is asking for a period of time of up to one year, in order to clarify the evolving state of the law with regard to MMD, and to formulate recommended amendments to the Municipal Code for the City to better handle this growing topic. During this time period, staff is asking for the imposition of a moratorium on land use applications, licenses and permits. This would allow staff to investigate the City's ability to regulate such businesses and develop and implement appropriate regulations and code amendments. This would allow consideration for the possible approval for City licenses, permits, and development proposals related to the operation of MMD.

Staff believes that twelve months is a reasonable period of time to determine the extent to which MMD will be regulated on a statewide basis and to properly investigate, develop, and, if appropriate, adopt and implement any local regulations related to MMD.

BUDGET IMPLICATIONS:

The staff time dedicated to the investigation of the City's ability to regulate such businesses and develop and implement appropriate regulations and code amendments as appropriate is associated with a budget cost.

ADVANTAGES:

By passing the request for a moratorium on marijuana dispensaries within the City, Council is giving

staff time to craft any needed amendments to code to regulate and/or mitigate the effects of the use.

DISADVANTAGES:

Potential businesses owners will not be allowed to come into the City and set-up commercial businesses distributing medical marijuana.

RELATED CITY GOAL:

One of the City's adopted goals is "to review and evaluate ... ordinances, and policies to provide for the current and future needs of the citizens." Evaluating and implementing ordinances related to marijuana dispensaries was listed as one of this year's activities related to this goal.

ACTION REQUESTED:

If it pleases the City Council, consider enacting Resolution 14-03.

Attachment

- Resolution 14-03

City of Coos Bay

Resolution 14-03

A RESOLUTION OF THE CITY OF COOS BAY, COOS COUNTY, OREGON IMPOSING A MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF APPLICATIONS FOR THE ISSUANCE OF PERMITS RELATED TO BUSINESSES THAT SEEK TO DISPENSE MEDICAL MARIJUANA AND ON THE ESTABLISHMENT OR OPERATION OF ANY SUCH BUSINESS IN THE CITY

WHEREAS, the citizens of the State of Oregon passed a state proposition in 2013, which permits, within certain parameters, the operation of medical marijuana dispensaries within the State of Oregon; and

WHEREAS, the State of Oregon has not as yet finalized administrative rules governing the process by which medical marijuana dispensary businesses can operate within the State; and

WHEREAS, over recent weeks, City staff have received a number of inquiries from persons interested in opening medical marijuana dispensaries within the City, and it is anticipated that such inquiries will continue to be made from persons interested in opening such businesses in the City; and

WHEREAS, under the general zoning laws of the City, these medical marijuana dispensaries ("MMDs"), likely constitute retail sales operations which are permitted uses in a wide variety of zones, including those that are primarily intended for residential use; and

WHEREAS, the City currently has no land use or business regulation concerning the operation of MMDs; and

WHEREAS, the unregulated operation of MMDs in the City presents serious health and safety concerns to the citizens of the City of Coos Bay; and

WHEREAS, municipalities throughout Oregon are struggling to gain control over the proliferation of MMDs, and have enacted various kinds of local regulations in an attempt to curtail abuses under the current medical marijuana laws of the State of Oregon; and

WHEREAS, a significant period of time, which may be up to one year, will be required in order for the City Manager and his staff, including the City Attorney, to clarify the evolving state of the law with regard to MMDs, and to formulate recommended amendments to the Municipal Code for the City to deal with this subject; and

WHEREAS, with the anticipated influx of MMDs into the City, the City Council is concerned about its ability to protect the public welfare and preserve the character of the City's neighborhoods and commercial areas where MMDs might be located; and

WHEREAS, the imposition of a moratorium for a reasonable period of time on the acceptance, consideration and approval of all applications for City licenses, permits and development proposals related to the operation of MMDs, and the establishment of MMDs in the City, will allow City staff and the City Council to investigate the City's ability to regulate such businesses and develop and implement appropriate regulations; and

WHEREAS, twelve months is a reasonable period of time, and no longer than is necessary for the City to determine the extent to which MMDs will be regulated on a statewide basis and to properly investigate, develop, and, if appropriate, adopt and implement any local regulations related to MMDs.

NOW, THEREFORE, BE IT RESOLVED:

- 1) That the recitals contained in this resolution are hereby adopted and incorporated as findings of fact of the City Council.
- 2) That the proliferation of unregulated MMDs in the City warrants the imposition of a moratorium because of the serious health and safety concerns presented by such unregulated MMDs;
- 3) That it is necessary for the preservation of the public health, safety, and welfare to delay the acceptance and processing of applications for City licenses, permits, and development proposals related to the establishment and operation of MMDs in the City, until the City has had a reasonable opportunity to determine the extent of the City's regulatory authority over such businesses and to further determine what regulations, if any, should be imposed by the City upon these businesses.
- 4) That a moratorium is hereby imposed, as of the effective date of this resolution (the "Effective Date"), on the acceptance and processing of any applications to the City for the approval of licenses, permits, or development proposals related to the establishment or operation of MMDs.
- 5) That this moratorium shall continue in effect until January 1, 2015, or such earlier date as may be determined by the City Council.
- 6) That no MMDs shall be established or shall operate within the City after the effective date of this moratorium.
- 7) That during the term of this moratorium, the City Manager and his staff, including the City Attorney, and the Planning Commission, are hereby directed to analyze the issues pertaining to the operation of MMDs within the City and develop for City Council consideration of regulations as they may deem necessary and appropriate to address such issues, including, but not limited to:
 - a. The State rules and regulations applicable to the operation of MMDs;
 - b. The impact of MMDs on the character of residential neighborhoods and commercial areas where they might be located; and
 - c. Any increase that will likely occur in vehicular traffic or in nuisance or criminal activities in areas where MMDs are located.
- 8) That on or before the first City Council meeting of January of 2015, the City Manager is directed to present for the City Council's formal consideration such laws and regulations relating to MMDs in the City as the City Manager considers necessary and appropriate for the preservation of the health, safety, and welfare of the residents of the City.

- 9) That nothing herein shall be construed as decriminalizing or making lawful in the City any MMD or other business involved in the acquisition, possession, manufacture, production, use, sale, distribution, dispensing, or transportation of marijuana or related paraphernalia that is not lawful under state criminal laws.

The foregoing resolution was duly adopted by the City Council of the City of Coos Bay, Coos County, Oregon this 21st day of January 2014.

Crystal Shoji, Mayor

ATTEST:

Susanne Baker, City Recorder