



CITY OF MILWAUKIE  
*"Dogwood City of the West"*

**Ordinance No. 2076**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, RELATING TO MEDICAL MARIJUANA FACILITIES; ESTABLISHING NEW CODE CHAPTER 5.50; AND DECLARING AN EMERGENCY.**

**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 will begin accepting applications for their operation in March, 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; and

**WHEREAS**, pursuant to Article XI, Section 2 of the Oregon Constitution, the City of Milwaukie 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.

Now, Therefore, **THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:**

Section 1. A new Chapter 5.50 is adopted and added to the Municipal Code of Milwaukie which will read as follows:

**5.50 Medical Marijuana Facilities**

**5.50.010. 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 Milwaukie to allow the City Council time to consider and adopt proper zoning or other regulations for medical marijuana facilities. The

State of Oregon is set to grant licenses to medical marijuana facilities in March 2014. The City Council finds that March, 2014, 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 Milwaukie.

Section 2. A new section 5.50.020 of the Municipal Code of Milwaukie which will read as follows is hereby adopted:

5.50.020. 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 5.50.030 of the Municipal Code of Milwaukie which will read as follows is hereby adopted:

5.50.030. 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 Milwaukie.

Section 4. A new section 5.50.040 of the Municipal Code of Milwaukie which will read as follows is hereby adopted:

5.50.040. 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 Milwaukie Municipal or Development Codes as a permitted use in any zoning district. Neither the City Manager nor any city employees 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 5.50.050 of the Municipal Code of Milwaukie which will read as follows is hereby adopted:

5.50.050. Violations.

(A) A person who violates this Chapter commits a civil infraction and shall be subject to a fine of up to \$200. Each violation, and each day that a violation continues, constitutes a separate civil infraction.

(B) The civil infraction procedures in Chapter 1.08 of the Municipal Code of Milwaukie apply to the prosecution of any violation of this Chapter.

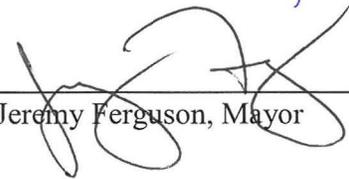
Section 6. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this 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. Emergency Clause. It is necessary for the public health, safety and general welfare that this ordinance take effect immediately; therefore, an emergency is declared to exist and this ordinance shall be effective upon the date of its adoption.

Section 8. Ordinance Automatically Expires. This ordinance automatically expires and is to be deemed repealed at 11:59:59 p.m. on December 31, 2014, unless sooner repealed or extended by City Council ordinance.

By 4-0 vote of all Council members present after being read by number and title only, \*this 25th day of February, 2014.

*\*on the first motions,  
and in full on the  
second motion. PAD*

  
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Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Ramis, PC

  
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Pat DuVal, City Recorder

  
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