

**CITY OF FLORENCE  
ORDINANCE NO. 2, SERIES 2014**

**AN ORDINANCE OF THE CITY OF FLORENCE, LANE COUNTY, OREGON IMPOSING A  
TEMPORARY MORATORIUM ON THE ISSUANCE OF BUSINESS LICENSES TO MEDICAL  
MARIJUANA FACILITIES AND ON THE OPERATION OF ANY SUCH BUSINESS WITHIN  
THE CITY; AND DECLARING AN EMERGENCY**

- WHEREAS,** during the 2013 Special Session, the Oregon Legislature passed HB 3460, which allows, within certain parameters, for the operation and registration of medical marijuana facilities; and
- WHEREAS,** the Oregon Health Authority has adopted administrative rules governing the registration of medical marijuana facilities, but only adopted these rules on January 14, 2014, thereby leaving the City little time to review the local impacts of the rules; and
- WHEREAS,** during the just completed 2014 session of the Oregon Legislature, SB 1531 passed which specifically authorizes local governments to enact moratoria on the operation of medical marijuana facilities; and
- WHEREAS,** pursuant to Article XI, Section 2 of the Oregon Constitution, the City of Florence has “home rule” authority over the civil affairs of its City; and
- WHEREAS,** over recent weeks, City staff have received a number of inquiries from persons interested in opening medical marijuana facilities 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,** it is necessary for the preservation of the public health, safety and welfare to delay the acceptance and processing of applications for City business licenses related to the establishment and operation of medical marijuana facilities within 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 locally tailored regulations, if any, should be imposed by the City upon these businesses; and
- WHEREAS,** FCC 3-1-3-2.A provides that a business license is required to “conform” to all Federal, state and local laws, and FCC 3-1-7-2.A.2 provides a mechanism for the City to deny or revoke a license if a person violates Federal law; and
- WHEREAS,** Federal law provides that marijuana possession is a crime, however state law allows medical marijuana facilities and also allows one to possess marijuana with the proper medical marijuana registry identification card, which because these laws contradict makes it difficult to “conform”;

**WHEREAS,** the imposition of a moratorium for a period of one year on the issuance of business licenses to medical marijuana facilities, and the operation of such facilities within the City, will allow City staff and the City Council to monitor the City's ability to regulate such businesses and make recommendations on appropriate locally tailored regulations, if any.

**NOW, THEREFORE THE CITY OF FLORENCE ORDAINS AS FOLLOWS:**

- Section 1:** The City Council adopts the above recitals as findings of fact.
- Section 2:** Medical marijuana facilities are those businesses required to register with the Oregon Health Authority under ORS 475.314.
- Section 3:** Medical marijuana facilities are required to obtain a business license under FCC Title 3, Chapter 1. No business license for a medical marijuana facility will be issued by the City until after the temporary moratorium period adopted by this ordinance expires.
- Section 4:** Pursuant to the authority of SB 1531 (2014), the City implements a temporary moratorium on the operation of registered medical marijuana facilities within the City.
- Section 5:** The temporary moratorium period for purposes of Sections 3 and 4 shall commence immediately upon passage of this ordinance and shall expire at 11:59:59 p.m. on March 17, 2015.
- Section 6:** Operation of a medical marijuana facility within the City during the term of this temporary moratorium shall constitute operation of a business within the City without a proper business license and shall subject the business to penalties under FCC 3-1-9.
- Section 7:** During the term of the moratorium, the City Manager and Police Chief are directed to monitor the issues pertaining to the operation of medical marijuana facilities within the City and, if necessary, develop for City Council consideration 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 medical marijuana facilities;
  - b. The impact of medical marijuana facilities on the character of areas where they might be located; and
  - c. The increase that will likely occur in vehicular traffic or in nuisance or criminal activities in areas where medical marijuana facilities are located.
- Section 8:** On or before the first City Council meeting of March, 2015, the City Manager is directed to present for the City Council's consideration such laws and regulations relating to medical marijuana facilities as the City Manager considers

necessary and appropriate for the preservation of the health, safety, and welfare of the residents of the City.

**Section 9:** Nothing in this ordinance shall be construed as decriminalizing or making lawful in the City any medical marijuana facility or other business involved in the acquisition, possession, manufacture, production, use, sale, distribution, or transportation of marijuana or related paraphernalia that is not lawful under state criminal laws.


**Section 10:** The Council declares an emergency and declares that this ordinance shall take effect immediately upon passage. The immediate effectiveness of this ordinance is required because the issuance of a business license to a medical marijuana facility or the operation of a registered medical marijuana facility within the City without further study of the impacts on the City of such businesses may have immediate impacts on the public peace, health, safety and welfare.

**Section 11:** If any section or provision of this ordinance shall for any reason, declared to be illegal, unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect or impair the validity of the ordinance as a whole or any section, provision, or remaining portion of the ordinance.

Passed by the Florence City Council this 17<sup>th</sup> Day of March 2014.

Ayes	5 - Councilor Henry, Jagoe, Roberts, Greene and Mayor Xavier
Nays	0
Abstain	0
Absent	0

APPROVED BY THE MAYOR this 3/19/2014 day of March, 2014.

  
Kelli Weese, City Recorder

  
Nola Xavier, Mayor