



December 17, 2015

Board of County Commissioners
Clackamas County

Members of the Board:

Second Reading of Ordinance No. 09-2015 Repealing the Moratorium on Medical Marijuana Dispensaries (Chapter 6.12 of the Clackamas County Code) and Repealing Medical Marijuana Facility Regulations (Chapter 8.09 Of the Clackamas County Code) and Declaring an Emergency

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Purpose/Outcomes	Ordinance Repealing the Moratorium on Medical Marijuana Dispensaries and Repealing Medical Marijuana Facility Regulations in Clackamas County.
Dollar Amount and Fiscal Impact	N/A
Funding Source	N/A
Duration	N/A
Previous Board Action	The Board approved the moratorium on medical marijuana facilities on April 24, 2014. The Board modified the moratorium on January 8, 2015. The Board adopted time, place and manner regulations for marijuana vending facilities on April 16, 2015. This action is related to the adoption of ZDO-254, which the Board held a study session for on November 10, 2015, and public hearings on November 23 and December 2, 2015. The first reading took place on December 3, 2015.
Strategic Plan Alignment	1. N/A 2. Ensure safe, healthy and secure communities.
Contact Person	Nate Boderman, Assistant County Counsel – 503-655-8364
Contract No.	N/A

BACKGROUND:

On March 19, 2014, Senate Bill 1531 was signed into law which gave local governments the authority to impose “time, place and manner” regulations on medical marijuana dispensaries. The bill provided local governments the authority to impose up to a one-year moratorium on medical marijuana dispensaries, provided the moratorium was adopted by May 1, 2014. A number of local governments around the state imposed moratoriums under this law. The Board adopted Ordinance 01-2014 on April 24, 2014 which imposed a one-year moratorium on medical marijuana facilities in the County.

On November 4, 2014 voters approved Measure 91, which legalizes the consumption and sale of recreational marijuana in Oregon.

On January 8, 2015, the Board enacted Ordinance 01-2015 which modified Ordinance 01-2014 to exclude from the moratorium those medical marijuana dispensaries that had obtained approval from the Oregon Health Authority prior to the adoption of the original moratorium.

On April 16, 2015, the Board adopted Ordinance 04-2015 which regulated the time, place and manner of marijuana vending facilities.

In 2015, the State Legislature passed five bills related to the regulation and taxation of recreational and medical marijuana. The most significant of these five bills is House Bill 3400, which revised a number of the key elements of Measure 91 and clarified provisions related to local regulation of marijuana businesses.

In July, the Board directed staff to proceed with drafting new and amended land use regulations for recreational and medical marijuana facilities.

The Board is currently considering amendments to the Clackamas County Zoning and Development Ordinance (ZDO-254) to adopt regulations affecting recreational and medical marijuana-related land uses in the County. The Board recently held public hearings on ZDO-254 on November 23 and December 2, 2015.

A number of the substantive provisions that were adopted in Ordinance 04-2015 (Chapter 8.09 of the Clackamas County Code) are proposed to be relocated into Chapter 841 of the Zoning and Development Ordinance as part of the adoption of ZDO-254. ZDO-254 will also contain certain changes to the standards currently in place in Chapter 8.09 as a result of new state law requirements and certain changes resulting from the Board's consideration of time, place and manner regulations. Repeal of Chapter 8.09 will avoid conflicts and duplication of regulations across differing sections of the County Code in the event ZDO-254 is adopted.

The moratorium authorized by Senate Bill 1531, and adopted as Ordinance 01-2014 (Chapter 6.12 of the Clackamas County Code), terminated on May 1, 2015. There has been no further authorization to extend the moratorium. Repealing Chapter 6.12 will eliminate a section of the Code that is no longer operative.

The proposed ordinance contains an emergency clause which would set the effective date of the ordinance as January 4, 2016. This date corresponds to the effective date of the relevant portions of ZDO-254.

RECOMMENDATION:

Staff recommends the Board of County Commissioners read the proposed ordinance by title only and proceed to adoption.

Respectfully submitted,

Nate Boderman
Assistant County Counsel

Attachment: Proposed Ordinance

ORDINANCE NO. 09-2015

An Ordinance Repealing Chapters 6.12, Medical Marijuana Facility Moratorium and 8.09, Medical Marijuana Facility, of the Clackamas County Code and Declaring an Emergency

WHEREAS, on April 24, 2015, under the authority granted in Senate Bill 1531 (2014) the Board of County Commissioners enacted Ordinance 01-2014, a moratorium prohibiting the siting and operation of medical marijuana dispensaries within the jurisdictional boundaries of unincorporated Clackamas County. An emergency was declared and the moratorium was effective immediately; and

WHEREAS, on January 8, 2015, the Board of County Commissioners enacted Ordinance 01-2015 which modified the moratorium described above to exclude from the moratorium those medical marijuana dispensaries that had obtained approval from the Oregon Health Authority prior to the adoption of the moratorium; and

WHEREAS, the moratorium authorized by Senate Bill 1531, and adopted as Ordinance 01-2014 (Chapter 6.12 of the Clackamas County Code), terminated on May 1, 2015; and

WHEREAS, repealing Chapter 6.12 will eliminate a section of the Code that is no longer operative; and

WHEREAS, on April 16, 2015, the Board enacted Ordinance 04-2015 which regulated the time, place and manner of marijuana vending facilities; and

WHEREAS, in 2015, the State Legislature enacted House Bill 3400 (2015) which included provisions related to local regulation of marijuana businesses; and

WHEREAS, certain provisions enacted in Ordinance 04-2015 will be inconsistent with state law if they remain in effect after January 4, 2016; and

WHEREAS, the Board is considering amendments to the Clackamas County Zoning and Development Ordinance (ZDO-254) whereby certain provisions located in Chapter 8.09 of the Clackamas County Code (Ordinance 04-2015) will be relocated into Chapter 841 of the Zoning and Development Ordinance as part of the adoption of ZDO-254 and certain changes to the standards currently located in Chapter 8.09 will be made as a result of new state law requirements and the Board's consideration of issues related to time, place and manner regulation; and

WHEREAS, repeal of Chapter 8.09 will avoid conflicts and duplication of regulations across differing sections of the County Code in the event ZDO-254 is adopted; now, therefore;

The Board of Commissioners of Clackamas County ordains as follows:

Section 1: Chapter 6.12, Medical Marijuana Facility Moratorium, of the Clackamas County Code is hereby repealed.

Section 2: Chapter 8.09, Medical Marijuana Facility, of the Clackamas County Code is hereby repealed.

Section 3: Emergency Clause

The Board of Commissioners hereby finds and declares that an emergency exists inasmuch as the immediate effect of this Ordinance is necessary for the peace, health and welfare of the residents of the County. Accordingly, this Ordinance shall be effective on January 4, 2016.

ADOPTED this 17th day of December, 2015.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary