

**Prohibited within 300 feet of residential use**

ORDINANCE NO. 5833

AN ORDINANCE OF THE CITY OF ALBANY, OREGON IMPOSING LOCAL RESTRICTIONS ON MEDICAL MARIJUANA FACILITIES AND DECLARING AN EMERGENCY.

WHEREAS, the Oregon legislature enacted House Bill 3460 (2013) which requires the Oregon Health Authority to develop and implement a process to register medical marijuana facilities; and

WHEREAS, House Bill 3460 (2013) directs that persons who operate or are employed by a registered medical marijuana facility would enjoy immunity from state prosecution; and

WHEREAS, the issue of whether a local government believes a certain type of business should operate within its jurisdictional limits, and particular time, place, and manner restrictions on such businesses, are local government decisions, the enforcement of which are subject to the general and police powers of that jurisdiction; and

WHEREAS, the Oregon Legislature enacted Senate Bill 1531 (2014) which expressly authorized a city to adopt ordinances that impose reasonable regulations on the operation of medical marijuana facilities which regulations may include reasonable limitations on the hours during which a medical marijuana facility may be operated, reasonable limitations on where a medical marijuana facility may be located, and reasonable conditions in a manner in which a medical marijuana facility may dispense medical marijuana; and

WHEREAS, the City Council of the City of Albany believes it is in the best interests of the health, safety and welfare of the citizens of Albany to enact the reasonable restrictions set forth in this ordinance on medical marijuana facilities operating within the jurisdictional boundaries of the City of Albany;

NOW, THEREFORE, BASED UPON THE FOREGOING, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

SECTION 1: CREATION OF AMC 5.08.025.

AMC 5.08.\_\_\_\_ is hereby created to read as follows:

**5.08.025. LIMITATIONS ON OPERATION OF MEDICAL MARIJUANA FACILITIES**

(1) In addition to such limitations and regulations as may be imposed by state law on medical marijuana facilities which dispense marijuana pursuant to ORS 475.314, no such facility nor any person operating as an employee or agent of such facility shall operate, locate, or dispense marijuana within 300 feet of any property zoned residential as described in Article 3 of the Albany Development Code (ADC) or zoned mixed-use as described in Article 5 of the ADC, and the Office Professional (OP) and Neighborhood Commercial (NC) zones as described in the ADC. This restriction does not apply to property that is zoned Industrial Park (IP), Light Industrial (LI) or Heavy Industrial (HI).

(2) In addition to such limitations and regulations as may be imposed by state law on medical marijuana facilities which dispense marijuana pursuant to ORS 475.314, no such facility nor any person operating as an employee or agent of such facility shall locate or operate a medical marijuana facility or dispense medical marijuana without an annual payment to the City of Albany in the amount of \$150 as a permit fee to defray law enforcement costs associated with reasonable inspections, oversight, and enforcement actions associated with the operation of medical marijuana facilities within the jurisdictional limits of the City of Albany.

(3) Violation of this section shall be a misdemeanor punishable under the general penalty set forth at AMC 1.04.

SECTION 2: REMEDIES NOT EXCLUSIVE. The remedies available under Senate Bill 1531 (2014) are not exclusive of any other remedies available under any applicable federal, state or local law. It is within the discretion of the City of Albany to seek cumulative remedies for a violation of this ordinance. Such cumulative remedies include, but are not limited to, punishment, charged as a misdemeanor under the general penalty set forth at AMC 1.04.

SECTION 3: SEVERABILITY. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

SECTION 4: EMERGENCY. In as much as this ordinance is necessary for the immediate preservation of the public peace, health, and safety of the city of Albany, and an emergency is hereby declared to exist; and this Ordinance shall take effect and be in full force and effect when signed by the Mayor.

Passed by Council: April 23, 2014

Approved by Mayor: April 23, 2014

Effective Date: April 23, 2014

ATTEST:

Mary A. Dibble  
City Clerk

[Signature]  
Mayor