

**BEFORE THE BOARD OF COMMISSIONERS IN THE COUNTY OF LAKE
IN THE STATE OF OREGON**

In the Matter of an Ordinance Enacting)	
A Temporary Moratorium on Medical &)	County Ordinance
Recreational Facilities within the)	No. 109
Jurisdiction of Lake County &)	
Declaring an Emergency)	

The Lake County Board of Commissioners hereby ordains as follows:

Section 1: Authority.

This Ordinance is adopted pursuant to the powers of Lake County under ORS 197.520, ORS 203.035, the Oregon Constitution, and the federal Controlled Substances Act, 21 USC § 801 *et seq.*

Section 2: Purpose.

The purpose of this Ordinance is to impose a temporary moratorium in accordance with ORS 197.520 on the establishment of new and expansion of existing marijuana facilities in any area within the jurisdiction of Lake County.

The purpose of the temporary moratorium is to delay development of County land use regulations for recreational and medical marijuana until the state regulations have been adopted. The moratorium will therefore allow the County to develop comprehensive zoning regulations that are consistent with state regulations for both recreational and medical marijuana.

Furthermore, by waiting until the state regulations are adopted, the County seeks to avoid adopting land use regulations that would have to be immediately revised to comply with state regulations.

Section 3: Background and Context.

In the coming months, Oregon will have established two regulatory programs governing the sale of marijuana.

The first is an existing program for medical marijuana, approved by the voters in 1998 and governed by the Oregon Medical Marijuana Act (“OMMA”) *codified* at ORS 475.300 *et seq.* The Oregon Health Authority administers OMMA. In 2013, House Bill 3460 required the Oregon Health Authority to adopt regulations for the registration of medical marijuana dispensaries.

Oregon's second marijuana program was approved by the voters in November 2014 through Ballot Measure 91, which legalizes recreational marijuana. The recreational marijuana program will be administered by the Oregon Liquor Control Commission ("OLCC"). OLCC is currently developing rules to implement the program, which will go into effect initially on July 1, 2015, with the allowance of personal use and possession of recreational marijuana and then on January 4, 2016, when OLCC must begin accepting license applications to produce and sell marijuana. OLCC's rules will thus likely be adopted by January 4, 2016.

In addition to OLCC and OHA rules, the state legislature has proposed several bills, which if adopted may affect state law and regulation for both the recreational and medical marijuana programs as well as local government authority to regulate the programs.

Oregon's two marijuana programs will therefore be administered by two different state agencies under two separate, distinct and, as yet, not completed regulatory frameworks. The regulations implementing recreational marijuana have yet to be announced, and regulations implementing medical marijuana will likely be amended by the current state legislature. However, regulations affecting both programs are expected to be determined within the coming months.

Section 4: Moratorium Declared.

The establishment of new and expansion of existing medical marijuana facilities and recreational marijuana facilities shall be prohibited within the incorporated boundaries of Lake County. As used in this Ordinance, "marijuana facilities" means areas indoors or outdoors used for growing, cultivating, dispensing, selling, processing, producing or wholesaling marijuana whether for medical or recreational purposes.

Section 5: Duration of Moratorium.

The moratorium imposed by this Ordinance shall be effective until August 19, 2015. The moratorium may be extended by Board Order in accordance with ORS 197.520(4) following a public hearing. The County shall provide at least 14 days' notice of any hearing on an extension of this moratorium. Notice shall be sent to the Department of Land Conservation and Development, to those who have testified either orally or in writing at public hearing on this Ordinance and to those who have submitted a written request to receive notice. Notice shall be published in newspapers of general circulation in the County as well as on the County's website.

Section 6: Enforcement.

The Lake County Sheriff's Department will be responsible for enforcement of this Ordinance.

Section 7: Remedies.

Non-exclusive remedies for enforcement are all those available under State and County laws including seizure of property, civil and criminal penalties.

Section 8: Severability.

If for any reason any court of competent jurisdiction holds any portion of this Ordinance to be invalid, and such holding is upheld on any appeal, such portion shall be deemed a separate, distinct and independent portion. Any such holding shall not affect the validity of the remaining portions.

Section 9: Scrivener's Errors.

Any scrivener's errors in this Ordinance may be corrected by order of the Board of Commissioners.

Section 10: Emergency.

This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance shall take effect immediately upon adoption.

Enacted and ordained by the Lake County Board of Commissioners on this
3rd day of June, 2015.

LAKE COUNTY BOARD OF COMMISSIONERS

Absent
Bradley Winters, Chair

Dan Shoun
Dan Shoun, Member

Ken Kestner
Ken Kestner, Member