

OCT 09 2020

MEASURE 2022 –

GAYLE V. TROTTER, County Clerk  
By *Gayle V. Trotter* Deputy

**CAPTION** (10 words which reasonable identifies the subject matter of the measure): Allows medical marijuana dispensaries in Malheur County under Oregon laws.

**QUESTION** (20 words which plainly phrases the chief purpose of the measure): Should ordinances (206, 210) be repealed and amended in order to allow medical marijuana dispensaries to operate in Malheur County?

**SUMMARY** (175 words which concisely and impartially summarizes the measure and its major effect): This measure repeals Malheur County Court Ordinance 206 and amends Ordinance 210 in order to allow licensed and registered medical marijuana dispensaries to exist in Malheur County pursuant to Oregon law. This measure does not apply within the boundaries/limits of any incorporated city within Malheur County (Ontario, Vale, Nyssa, Adrian, Jordan Valley). Malheur County would not receive state tax revenues from lawful medical marijuana dispensaries.



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I, Deborah R. DeLong, County Clerk for Malheur County, Oregon certify that the instrument identified herein was recorded in the Clerk records.

Deborah R. DeLong - County Clerk

*Ripoll*

**IN THE COUNTY COURT FOR MALHEUR COUNTY, OREGON**

<b>An Ordinance Relating to Medical Marijuana</b>	)	
<b>Facilities; Establishing New Malheur County Code</b>	)	<b>Ordinance No. 206</b>
<b>Title 3 Chapter 14; And Declaring an Emergency</b>	)	

**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 began accepting application for their operation in March, 2014; and

**WHEREAS**, the Federal Controlled Substances Act, 21 USC § 801, et seq., establishes cannabis (marijuana) as a Schedule I controlled substance, a category reserved for substances with no currently accepted medical uses in the United States, a lack of accepted safety protocols for use under medical supervision, and possessing a high potential for abuse; and

**WHEREAS**, Malheur County requires each development, business and land use application to be consistent with all applicable state and federal laws and regulations; and

**WHEREAS**, Malheur County will not grant or imply approval to activities that are in violation of federal law as it may open the County to civil/and or criminal liability from the United States government; and

**WHEREAS**, ORS 475.314 (1) insofar as that provision authorizes the transfer of medical marijuana, is likely preempted by federal law and may be unenforceable; and

**WHEREAS**, Malheur County currently finds that the medical marijuana card program has been abused and distorted by improper and lax distribution of medical marijuana cards; and

**WHEREAS**, Malheur County is a governing body and political subdivision of the state of Oregon 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 affairs of its County; and

WHEREAS, notice of this ordinance was published in the Malheur Enterprise on March 5, 2014, the Argus Observer on March 6, 2014 and posted in the Malheur County Courthouse, Malheur County Justice Court and Vale City Hall more than one week prior to March 12, 2014.

Rec'd

**NOW THEREFORE, THE MALHEUR COUNTY COURT ORDAINS AS FOLLOWS:**

**SECTION 1: Malheur County Code Title 3 Chapter 14 is added to the Malheur County Code to read as follows:**

**Title:** Medical Marijuana Facilities

**Purpose and Intent:** The purpose of this Section is to prohibit medical marijuana facilities licensed by the State of Oregon from operating within Malheur County.

**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 and/or ORS 475.300-475.346, 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.

**Prohibited Activities and Moratorium:** It is unlawful to establish, operate, use, or cause or permit the establishment, operation, or use of a medical marijuana facility within Malheur County. There is a moratorium on the operation of any medical marijuana facility in any area subject to Malheur County jurisdiction.

**County 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 Malheur County Code as a permitted use in any zoning district. Neither the Planning and Zoning Director nor any county 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.

**Violations.**

- (A) A person who violates this Chapter commits a Class A civil infraction and shall be subject to a fine of up to \$500. Each violation, and each date that a violation continues, constitutes a separate civil infraction.

*Repeal*

(B) The civil infraction procedures in the Malheur County Code under the jurisdiction of the Malheur County Justice Court apply to the prosecution of any violation of this Chapter.

(C) The fine or civil penalty above is not exclusive and is in addition to any other right or remedy provided by law.

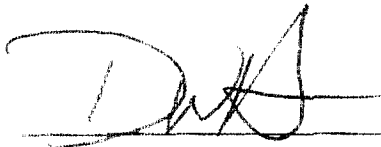
**SECTION 2: Severability.** Each section of this ordinance and any part thereof, are severable. If any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance shall remain in full force and effect.

**SECTION 3: Emergency.** With the state issuing licenses to medical marijuana facilities beginning March 2014, this ordinance is necessary for the immediate protection of the public peace, health, safety and welfare and shall take effect immediately upon adoption.

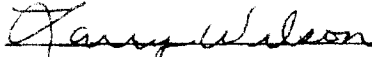
DATED AND ADOPTED this 12<sup>th</sup> day of March 2014.

*Absent*

County Judge Dan P. Joyce



County Commissioner Don Hodge



County Commissioner Larry Wilson

ORDINANCE NO. 210

AN ORDINANCE PROHIBITING  
MARIJUANA PROCESSING SITES,  
MEDICAL MARIJUANA DISPENSARIES,  
MARIJUANA PRODUCERS,  
MARIJUANA PROCESSORS,  
MARIJUANA WHOLESALERS,  
AND MARIJUANA RETAILERS  
IN MALHEUR COUNTY; AND DECLARING AN EMERGENCY

WHEREAS, the Oregon legislature enacted House Bill 3400 (2015), which allows counties to prohibit various activities relating to the producing, processing, wholesaling, selling, and dispensing of marijuana if not less than 55% of votes cast in the county, during the statewide general election held on November 4, 2014, on Ballot Measure 91 (chapter 1, Oregon Laws 2015) were in opposition to the Ballot Measure; and

WHEREAS, 68.72% of votes cast in county-wide during the statewide general election held on November 4, 2014, on Ballot Measure 91, (chapter 1, Oregon Laws 2015) were in opposition to the Ballot Measure; and

WHEREAS, 72.22% of the votes cast in the unincorporated areas of Malheur County during the statewide general election held on November 4, 2014, on Measure 91, (chapter 1, Oregon Laws 2015) were in opposition to the Ballot Measure; and

WHEREAS, 21 USC § 801, *et seq*, the Federal Controlled Substances Act, prohibits the manufacture, distribution, and possession of marijuana, and imposes criminal penalties for violating the act; and

WHEREAS, it is in the best interest of the health, safety, and welfare of the citizens of Malheur County to prohibit the establishment of various activities relating to the producing, processing, wholesaling, selling, retailing ~~and dispensing~~ of marijuana in the area subject to the jurisdiction of Malheur County. *amend*

MALHEUR COUNTY, OR 2015-2858  
MRORDINANCE

08/05/2015 11:42 AM

Cnt=1 Pgs=3

NO FEE



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I, Deborah R. DeLong, County Clerk for Malheur  
County, Oregon certify that the instrument identified  
herein was recorded in the Clerk records

Deborah R. DeLong - County Clerk *DeLong*

**NOW THEREFORE, THE MALHEUR COUNTY COURT ORDAINS AS FOLLOWS:**

SECTION 1. The following Sections are hereby added to the Malheur County Code Title 3 Chapter 14:

**PROHIBITED ACTIVITIES RELATED TO MARIJUANA.** The establishment or maintenance of any one or more of the following is prohibited within the jurisdictional limits of Malheur County:

(A) Marijuana processing sites registered under section 85, chapter 614, Oregon Laws 2015;

~~(B) Medical marijuana dispensaries registered under ORS 475.314,~~

*amend*

(C) Marijuana producers licensed under section 19, chapter 1, Oregon Laws 2015;

(D) Marijuana processors licensed under section 20, chapter 1, Oregon Laws 2015;

(E) Marijuana wholesalers licensed under section 21, chapter 1, Oregon Laws 2015; and

(F) Marijuana retailers licensed under section 22, chapter 1, Oregon Laws 2015; and

(G) Any combination of the entities described above or under section 133 of House Bill 3400 (2015).

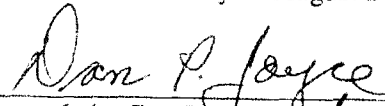
**FINE FOR VIOLATION.** A violation of this section is a class A violation under title 1, Chapter 9, Article A, "General Enforcement Provisions", of this code. Each day such violation continues shall be considered a separate violation.

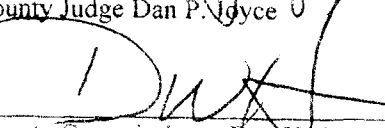
**CIVIL ACTION.** In addition to, or in lieu of, the imposition of a fine, Malheur County may initiate a civil action against any person or entity violating this ordinance for any and all remedies available under Oregon law, including but not limited to obtaining mandatory and prohibitory injunctions and orders of abatement. Malheur County shall be entitled to collect its costs and expenses, including reasonable attorney fees incurred at trial, hearing or on appeal.

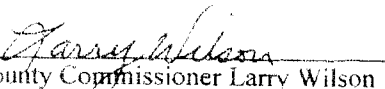
**SEVERABILITY.** If any part or section of this ordinance is invalid or unenforceable in any respect for any reason, the validity and enforceability of any such provision in any other respect and of the remaining provisions of this ordinance shall not be in any way impaired.

**EMERGENCY CLAUSE.** The Malheur County Court hereby adjudges that it is necessary for the immediate preservation of the peace, health, and safety of the county that ordinance shall take effect immediately upon its passage and approval, and an emergency is hereby declared to exist and this ordinance shall be in full force and effect immediately upon its passage.

PASSED this 5th day of August 2015.

  
\_\_\_\_\_  
County Judge Dan P. Joyce

  
\_\_\_\_\_  
County Commissioner Don Hodge

  
\_\_\_\_\_  
County Commissioner Larry Wilson

ATTEST:

  
\_\_\_\_\_  
Kim Ross, Recording Clerk