



## Staff Report

---

**File #:** 16-151

**Version:** 2

**Date:** 8/8/2016

**Item #:** 7.2c.

---

**TO:** Mayor and City Council

**THROUGH:** Steve Powers, City Manager

**FROM:** Dan Atchison, City Attorney

**SUBJECT:**

Ordinance Bill No. 12-16 establishing a registration system for marijuana businesses and repealing the licensing program for medical marijuana facilities.

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

**ISSUE:**

Shall City Council proceed to second reading of Ordinance Bill No. 12-16, which establishes a registration system for marijuana businesses, and repeals the licensing program for medical marijuana facilities?

**RECOMMENDATION:**

Proceed to second reading of Ordinance Bill No. 12-16, which establishes a registration system for marijuana businesses, and repeals the licensing program for medical marijuana facilities.

**SUMMARY AND BACKGROUND:**

At the June 27, 2016 Council meeting Council directed staff to prepare an ordinance for Council's review that would replace the City's existing marijuana licensing program with a registration requirement for marijuana businesses. The motion adopted by Council occurred during the hearing regarding Ordinance Bill No. 8-16, which proposed to clarify the existing medical marijuana licensing program (SRC Chapter 31), and establish a similar licensing program for recreational marijuana sales.

At the July 11, 2016 Council meeting Council conducted first reading of the ordinance bill. At the July 25, 2016 Council meeting, Council adopted a motion to engross Ordinance Bill No. 10-16, a proposed zone code amendment relating to marijuana growing, to prohibit medical marijuana facilities and recreational marijuana retailers in the Central Business (CB) Zoning District. Proposed Engrossed Ordinance Bill No. 10-16 is on tonight's agenda for second reading.

Conducting second reading of each ordinance tonight will result in both ordinances becoming effective on the same date, September 7, 2016.

## **FACTS AND FINDINGS:**

Ordinance Bill No. 12-16 provides:

- Requirement for all "marijuana businesses" to register with the City,
- "Marijuana Businesses" include medical marijuana facilities, recreational marijuana facilities, commercial marijuana grow site operators, and marijuana manufacturers,
- Persons required to register will also be required to consent to administrative inspections conducted by the Salem Police Department to ensure the business is operating in compliance with state and local law,
- Failure to timely register, or refuse to permit an administrative inspection, will result in a misdemeanor, punishable by up to six months in jail, or a \$500 fine, or both.
- Repeal of the City's medical marijuana regulations and licensing program.

Medical marijuana facilities will continue to be regulated by the Oregon Health Authority, and recreational facilities will be regulated by the Oregon Liquor Control Commission (OLCC). The City's zoning requirements will continue to apply, meaning marijuana sales may still only be conducted where retail sales are permitted by the underlying zoning.

The City's current locational restrictions, including the 1,000 foot separation requirement between facilities and school will no longer be in effect. Because the City will no longer be affirmatively be licensing marijuana sales, the concern over compliance with the Cole memo are substantially reduced. By affirmatively licensing the activity, which is still illegal under federal law, the City was at potential risk of federal enforcement of drug laws and loss of federal funding. If SRC Chapter 31 is repealed, and the licensing requirement is removed, the City will no longer affirmatively license marijuana sales, and the risk of the City violating the priorities identified by the U.S. DOJ, as outlined in the Cole memo, are largely eliminated.

Dan Atchison  
City Attorney

### **Attachments:**

1. Ordinance Bill No. 12-16

07/26/2016