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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

IN THE COUNTY COURT FOR MALHEUR COUNTY, OREGON

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

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.

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.

(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 12th day of March 2014.

absent

County Judge Dan P. Joyce

Don Hodge

County Commissioner Don Hodge

Larry Wilson

County Commissioner Larry Wilson