

Umatilla County

Department of Land Use Planning



DIRECTOR
TAMRA
MABBOTT

September 14, 2015

LAND USE
PLANNING,
ZONING AND
PERMITTING

MEMO

CODE
ENFORCEMENT

TO: Board of Commissioners
FROM: Tamra Mabbott *Tamra*
CC: Doug Olsen, County Counsel
Interested Parties

SOLID WASTE
COMMITTEE

RE: September 22, 2015 Land Use Hearing

SMOKE
MANAGEMENT

Legislative amendments to UCDO, defining terms and definitions for Marijuana

GIS AND
MAPPING

RURAL
ADDRESSING

LIAISON,
NATURAL
RESOURCES &
ENVIRONMENT

This legislative action will implement the land use portions of Ballot Measure 91 and House Bill 3400A (2015 session) relative to marijuana and land use. Together with the moratorium adopted by the Board in July, if the Board adopts these land use amendments, only personal possession and private use of marijuana will be allowed in Umatilla County.

The Planning Commission voted unanimously at their July 23, 2015 hearing to recommend the Board adopt the attached land use amendments. The County Medical Marijuana Study Committee reviewed the land use amendments at their meeting in July 14, 2015 and agreed to support the proposed amendments, along with providing other recommendations to the Board.

The package adopted by Planning Commission in July is significantly different than the amendment package they reviewed and adopted in April. Both packets are included in your Board packet so you may compare the two proposals.

This is due to the changes to Measure 91 that were made as a result of HB 3400A. Most notably, HB 3400A allowed counties who voted 55% against Measure 91 to opt out of recreational and medical marijuana growing, harvesting and processing. Prior to HB 3400A, state law required that a local government allow medical marijuana dispensaries albeit with local time, place and manner standards of operation. With the moratorium and HB 3400A, Umatilla County is no longer obligated to allow medical or recreational dispensaries.

Private use remains a right according to state law.

SUMMARY OF AMENDMENTS

- A. **Residential Zones** – Amendment clarifies the definition of farm use to exclude the “growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes.” County definition for farm use includes a cross reference to the definition of farm use in ORS 215.203, which is the same definition that applies to resource (farm and forest) lands. Where HB 3400A declared marijuana a farm crop the intent of this amendment will be to allow farm use as defined in ORS 215.203 as a use permitted outright, except for marijuana.
- B. **Commercial and Industrial Zones** – Same as above.
- C. **Exclusive Farm Use (EFU) Zones.** HB 3400A defines marijuana as a farm crop. County UCDO cross references ORS definition of farm use (ORS 215.203). HB 3400A gives a county the option; a county may allow or may choose to not allow marijuana production. By leaving the code silent on production of marijuana in the EFU zones, county effectively does not have a mechanism to permit production (growing) of marijuana. Further, the county moratorium makes it clear that commercial marijuana production is prohibited. So, if a landowner applies to the Oregon Liquor Control Commission for a license to grow marijuana as a crop, county Planning Response on the OLCC application will be to check the box that says “use not allowed.”

Consistent with HB 3400A Section 34(1), county amendments will prohibit the following in the EFU Zone:

- (a) A new dwelling used in conjunction with a marijuana crop;
- (b) A farm stand, as described in ORS 215.213(1)(r) or 215.283(1)(o), used in conjunction with a marijuana crop;
and
- (c) A commercial activity, as described in ORS 215.213(2)(c) or 215.283(2)(a)m, carried on in conjunction with a marijuana crop.

D. Grazing Farm Zone (GF). Umatilla County GF Zone is a mixed farm and forest zone. See notes above relative to HB 3400A Section 34 (3).

E. Other Zones. – Same as residential and commercial and industrial zones.

EXHIBITS TO BOARD PACKET

1. UCDO Amendments approved by PC
2. Analysis of HB 3400 A Section 34, Land Use by Rob Bovett, AOC legal Counsel
3. Comments from Katherine Daniels, DLCD Farm and Forest Specialist
4. July 23, 2015 PC Agenda and Hearing Packet
5. April 23, 2015 PC Agenda and Hearing Packet

DEFINITIONS UCDO Section 152.003

The following are proposed amendments/additions to the definition section of the UCDO Section 152.003.

152.003 Medical Marijuana Dispensary (MMJ) or Laboratory.

A Medical Marijuana Dispensary shall be the same as defined in OAR 333-008-1050 and licensed by the Oregon Health Authority and registered as a business with the Office of the Secretary of State.

152.003 Medical Marijuana (MMJ) Grow Facility or Operation property.

A Medical Marijuana (MMJ) Grow Site or Grow operation shall be the same as defined in OAR 333 Division 8 where a single parcel of land is used as a grow operation for more than four MMJ cardholders (or patients). A medical marijuana grow facility may also be defined as an operation (single parcel of land) where marijuana is grown for four or more medical marijuana cardholders or persons who consume marijuana for medical purposes.

152.003 Medical Marijuana Processing Facility.

A Medical Marijuana Processing Facility is a place where marijuana is processed for human consumption.

152.003 Pain Management Clinic.

A pain management clinic is a business or clinic where professional treatment is provided to persons who have chronic pain or addictions.

152.003 Recreational Marijuana.

Recreational marijuana is marijuana consumed for non-medical purposes. The definition shall be the same as defined in (Measure 91, Oregon Revised Statutes) and as subsequently amended in Oregon Revised Statute. The growing, harvesting or processing of marijuana for recreational purposes is considered a for-profit business.

152.003 Recreational Marijuana Business.

A recreational marijuana facility or business is a place where marijuana is sold or traded for profit and intended for non-medical purposes.

152.003 Hemp or Industrial Hemp.

Hemp or industrial hemp shall have the same meaning as defined in ORS 571.305. Growing of Hemp requires a permit from the Oregon Department of Agriculture. Hemp is prohibited in residential zones.

152.003 Farm Use.

UCDO definition of farm Use¹ is the same as ORS 215.203. HB 3400A Section 34 makes clear that marijuana is a farm use as defined in ORS 215.203.²

¹ FARM USE. (as defined in ORS 215.203) (1) The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding, management, and sale of, or the produce of livestock, poultry, fur-bearing animals or honeybees, or for dairying and the sale of dairy products or any agriculture or horticulture use; animal husbandry or any Umatilla County Development Code, Revision Date: April 28, 2015, Page 23 of 436 combination thereof. FARM USE includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. FARM USE also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines, including but not limited to providing riding lessons, training clinics and schooling shows. FARM USE also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. It does not include the use of land subject to the provisions of ORS Chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subdivision (3) of this definition or land as defined in ORS 321.267 (3) or 321.824 (3). (2) CURRENT EMPLOYMENT OF LAND FOR FARM USE means: (a) Farmland, the operation or use of which is subject to any farm-related government program; (b) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry; (c) Land planted in orchards or other perennials, other than land specified in subdivision (2) (d) of this definition, prior to maturity; (d) Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees, or vineyards for at least three years; (e) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable or grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use; (f) Except for land under a single family dwelling, land under buildings supporting accepted farm practices, including the processing facilities allowed by ORS 215.283 (1)(u) and the processing of farm crops into biofuel as commercial activities in conjunction with farm use under ORS 215.283 (2)(a); (g) Water impoundments lying in or adjacent to and in common ownership with farm use land; (h) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of the land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use. (i) Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer's immediate family. For purposes of the paragraph, illness includes injury or infirmity whether or not such illness results in death; (j) Any land described under ORS 321.267 (3) or 321.824 (3); (k) Land used for the processing of farm crops into biofuel, as defined in § 152.003 as BIO-FUEL, if: (i) Only the crops of the landowner are being processed; Umatilla County Development Code, Revision Date: April 28, 2015, Page 24 of 436 (ii) The biofuel from all of the crops purchased for processing into biofuel is used on the farm of the landowner; or, (iii) The landowner is custom processing crops into biofuels from other landowners in the area for their use or sale

² HB 3400A Section 34. (1) Notwithstanding any other provision of law, marijuana is:

(a) A crop for the purposes of 'farm use' as defined in ORS 215.203;

(b) (b)A crop for purposes of a 'farm' and 'farming practice,' both as defined in ORS 30.930; A product of farm use as described in ORS 308A.062; and The product of an agricultural activity for purposes of ORS 568.909.

EFU, EXCLUSIVE FARM USE ZONE

Sub-Sections

<u>152.055</u>	<u>Description and purpose</u>
<u>152.056</u>	<u>Uses permitted outright</u>
<u>152.057</u>	<u>Uses permitted with a farm use exempt permit</u>
<u>152.058</u>	<u>Uses permitted with a zoning permit</u>
<u>152.059</u>	<u>Land Use Decisions</u>
<u>152.060</u>	<u>Conditional uses permitted</u>
<u>152.061</u>	<u>Limitations on conditional uses</u>
<u>152.062</u>	<u>Parcel sizes</u>
<u>152.063</u>	<u>Development standards</u>

§ 152.055 DESCRIPTION AND PURPOSE.

The purposes of the EFU, Exclusive Farm Use Zone, are to preserve and maintain agricultural lands for farm use, including range and grazing uses, consistent with existing and future needs for agricultural products, forest and open spaces; to conserve and protect scenic resources; to maintain and improve the quality of air, water and land resources of the county and to establish criteria and standards for farm and non-farm uses and related and supportive uses which are deemed appropriate. It is also the purpose of this use zone to provide the automatic farm use valuation for farms, which qualify under the provisions of [ORS Chapter 308](#).

The provisions in this use zone are subject to automatic legislative amendments as described in §[152.004](#).
(Ord. [2005-02](#), passed 1-5-05; Ord. [2012-02](#) passed 1-26-12)

§ 152.056 USES PERMITTED OUTRIGHT.

In an EFU zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to § [152.007](#):

(A) Farm use, as defined in [ORS 215.203](#) and set out in § [152.003](#), except the dwellings and other buildings customarily provided in conjunction with farm use referred to in [ORS 215.283\(1\)](#). For the purpose of this section, farm use does not include customary accessory uses and structures (e.g. corrals, pens, barns, sheds, maintenance buildings, farm owned or personal use grain bins or elevators and chemical storage), which are permitted subject to approval of a zoning permit per § [152.026](#).

Notwithstanding (A) above, the following are not permitted uses in the EFU Zone:

- (1) A new dwelling used in conjunction with a marijuana crop;**
- (2) A farm stand in conjunction with a marijuana crop; and**
- (3) A commercial activity carried on in conjunction with a marijuana crop.**

GF, GRAZING/FARM ZONE

Sub-Sections

<u>152.080</u>	<u>Description and purpose</u>
<u>152.081</u>	<u>Uses permitted outright</u>
<u>152.082</u>	<u>Uses permitted with a farm exempt permit</u>
<u>152.083</u>	<u>Uses permitted with a zoning permit</u>
<u>152.084</u>	<u>Land Use Decisions</u>
<u>152.085</u>	<u>Conditional uses permitted</u>
<u>152.086</u>	<u>Limitations on conditional uses</u>
<u>152.087</u>	<u>Parcel sizes</u>
<u>152.088</u>	<u>Development standards</u>
<u>152.089</u>	<u>General siting and fire siting standards</u>

§ 152.080 DESCRIPTION AND PURPOSE.

The GF, Grazing/Farm, Zone is designed to protect grazing lands, forest uses, and inclusions of agricultural land that are found within the county's mixed use farm/forest areas. The predominant use of the land is for grazing of livestock; however, there are some areas that are under agricultural cultivation and other areas where forest uses occur. The zone is also designed to conserve and protect watersheds, wildlife habitat and scenic values and views within the Blue Mountains. Certain land uses may be allowed conditionally. It is also the purpose of this zone to provide the automatic farm use valuation for farms and ranches which qualify under the provisions of [ORS Chapter 308](#). Please see definition of farm use in [§ 152.003](#).

§ 152.081 USES PERMITTED OUTRIGHT.

In a GF Zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to §§ [152.007](#):

- (A) Farm use, as defined in [ORS 215.203](#) and [§ 152.003](#), except the dwellings and other buildings customarily provided in conjunction with farm use referred to in [ORS 215.283\(1\)](#). For the purpose of this section, farm use does not include customary accessory uses and structures (e.g. corrals, pens, barns, sheds, maintenance buildings, farm owned or personal use grain bins or elevators and chemical storage), which are permitted subject to approval of a zoning permit per [§ 152.026](#).

Notwithstanding (A) above, the following are not permitted uses in the GF Zone:

- (1) A new dwelling used in conjunction with a marijuana crop;**
- (2) A farm stand used in conjunction with a marijuana crop; and**
- (3) A commercial activity carried on in conjunction with a marijuana crop.**

NR, NON-RESOURCE ZONE

(Ord. [2000-10](#), passed 10-18-00)

Su-Sections

<u>152.100</u>	<u>Purpose</u>
<u>152.101</u>	<u>Applicability</u>
<u>152.102</u>	<u>Uses Permitted</u>
<u>152.103</u>	<u>Conditional Uses Permitted</u>
<u>152.104</u>	<u>Limitations on Use</u>
<u>152.105</u>	<u>Development/Dimensional Standards</u>
<u>152.106</u>	<u>Site Plan Review</u>

§152.102 USES PERMITTED

(A) *Uses permitted outright.* In a NR Zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to §[152.027](#): farm use, as defined in [ORS 215.203](#) and set out in §[152.003](#), except livestock feed yards and sale yards; hog or poultry farms and the raising of fur-bearing animals or hogs; **the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes**; and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in [ORS 215.203\(2\)\(a\)](#).

§152.100 PURPOSE

The NR (Non-Resource) Zone is designed to allow for the development of residential and recreational uses on land that is not suitable for resource uses while protecting open space and natural resource values. The zone is designed to implement the Non-Resource (NR) land use designation of the Comprehensive Plan.

The purposes of the NR zone are to:

(1) Allow rural development densities, while preserving large areas of open space by clustering development;

(2) Avoid the creation of new urban areas; and

(3) Allow very large lot development which preserves sensitive areas and a sense of open space.

(Ord. [2000-10](#), passed 10-18-00)

§152.101 APPLICABILITY

The Non-Resource Zone applies to lands that are designated Non-Resource (NR) in the Comprehensive Plan.

UC, UNINCORPORATED COMMUNITY ZONE

Sub-Sections

<u>152.115</u>	<u>Purpose</u>
<u>152.116</u>	<u>Uses permitted</u>
<u>152.117</u>	<u>Conditional uses permitted</u>
<u>152.118</u>	<u>Limitations on use</u>
<u>152.119</u>	<u>Dimensional standards</u>

ORS 215.203(2)(9). For the purpose of this section, *FARM USE* includes customary accessory uses (e.g. corrals, pens, barns, sheds, maintenance buildings, farm owned or personal use grain bins or elevators, or personal use chemical storage facilities);

§ 152.115 PURPOSE.

The UC, Unincorporated Community, Zone is designed to provide for the continuation and in filling of the small rural trading centers in the county that are located at some distance from developed or developing urban areas. The purpose of this use zone is to provide for needed facilities and services to maintain rural life styles while preserving the natural resources which are adjacent to these designated areas and to maintain the viability of incorporating these communities.

(Ord. 83-4, passed 5-9-83; Ord. 2008-09, passed 6-16-08)

§ 152.116 USES PERMITTED.

(A) *Uses permitted outright*. In a UC Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in ORS 215.203 and set out in § 152.003, except livestock feed yards and sales yards; hog or poultry farms and the raising of fur-bearing animals or hogs; **the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes**; and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in

RR-2, RURAL RESIDENTIAL ZONE

Statutes; and except the dwelling and other buildings customarily provided in conjunction with farm use referred to in [ORS 215.203\(2\)\(a\)](#).

Sub-Sections

<u>152.130</u>	<u>Purpose</u>
<u>152.131</u>	<u>Uses permitted</u>
<u>152.132</u>	<u>Conditional uses permitted</u>
<u>152.133</u>	<u>Limitations on use</u>
<u>152.134</u>	<u>Dimensional standards</u>

§ 152.130 PURPOSE.

The RR-2, Rural Residential, Zone is designed to provide lands to enhance the value of rural living and maintain a rural residential atmosphere while accommodating the demand for rural residences. Lots need to be sufficiently large to accommodate private wells and sewage disposal systems as well as gardens and farm animals. Standards for rural land use and development consistent with desired rural character and the capability of the land and natural resources are provided. The zone is applied to areas committed to non-resource use or needed for rural residential land use as provided for in the Comprehensive Plan.
(Ord. [83-4](#), passed 5-9-83)

§ 152.131 USES PERMITTED.

(A) *Uses permitted outright.* In a RR-2 Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in [ORS 215.203](#) and set out in § [152.003](#), except livestock feed yards and sale yards; hog or poultry farms and the raising of fur-bearing animals or hogs; **the growing, harvesting and processing of marijuana in accordance with Oregon Revised**

RR-4, RURAL RESIDENTIAL ZONE

the dwellings and other buildings customarily provided in conjunction with farm use referred to in [ORS 215.203\(2\)\(a\)](#).

Sub-Sections

<u>152.155</u>	<u>Purpose</u>
<u>152.156</u>	<u>Uses permitted</u>
<u>152.157</u>	<u>Conditional uses permitted</u>
<u>152.158</u>	<u>Limitations on use</u>
<u>152.159</u>	<u>Dimensional standards</u>

§ 152.155 PURPOSE.

The RR-4, Rural Residential, Zone is designed to provide lands to enhance the value of rural living and maintain a rural residential atmosphere while accommodating the demand for rural residences. Lots need to be sufficiently large to accommodate private wells and sewage disposal systems as well as gardens and farm animals. Standards for rural land use and development consistent with desired rural character and the capability of the land and natural resources are provided. The zone is applied to areas committed to non-resource use or needed for rural residential land use as provided for in the Comprehensive Plan.

(Ord. [83-4](#), passed 5-9-83)

§ 152.156 USES PERMITTED.

(A) *Uses permitted outright.* In a RR-4 Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in [ORS 215.203](#) and set out in § [152.003](#), except livestock feed yards and sale yards; hog or poultry farms and the raising of fur-bearing animals or hogs; **the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes**; and except

RR-10, RURAL RESIDENTIAL ZONE

Sub-Sections

<u>152.160</u>	<u>Purpose</u>
<u>152.161</u>	<u>Uses permitted</u>
<u>152.162</u>	<u>Conditional uses permitted</u>
<u>152.163</u>	<u>Limitations on use</u>
<u>152.164</u>	<u>Dimensional standards</u>

accordance with Oregon Revised Statutes; and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.203(2)(a).

§ 152.160 PURPOSE.

The RR-10 Rural Residential Zone is designed to provide lands to enhance the value of rural living and maintain a rural residential atmosphere while accommodating the demand for rural residences. Lots need to be sufficiently large to accommodate private wells and sewage disposal systems as well as gardens and farm animals. Standards for rural land use and development consistent with desired rural character and the capability of the land and natural resources are provided. The zone is applied to areas committed to non-resource use or needed for rural residential land use as provided for in the Comprehensive Plan.
(Ord. 2004-13, passed 8-17-04)

§ 152.161 USES PERMITTED.

(A) *Uses permitted outright.* In a RR-10 Zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to §152.027:

(1) Farm use, as defined in ORS 215.203 and set out in §152.003, except livestock feed yards and sale yards; hog or poultry farms and the raising of fur bearing animals or hogs; **the growing, harvesting and processing of marijuana in**

MUF, MULTIPLE USE FOREST ZONE

Sub-Sections

<u>152.170</u>	<u>Purpose</u>
<u>152.171</u>	<u>Uses permitted</u>
<u>152.172</u>	<u>Conditional uses permitted</u>
<u>152.173</u>	<u>Dimensional standards</u>

§ 152.170 PURPOSE.

The MUF, Multiple Use Forest, Zone is intended to provide medium size acreages within recreation-residential designated areas while also serving as a buffer between Low Density GF zoned lands and higher density Mountain Residential (MR) or Forest Residential (FR) land.

(Ord. [83-4](#), passed 5-9-83; Ord. [2012-02](#) passed 1-26-12)

§ 152.171 USES PERMITTED.

(A) *Uses permitted outright.* In a MUF Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in [ORS 215.203](#) and set out in §[152.003](#), except livestock feed yards, mink farms, poultry farms, the raising of hogs, **and the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes;**

FR, FOREST RESIDENTIAL ZONE

Sub-Sections

<u>152.215</u>	<u>Purpose</u>
<u>152.216</u>	<u>Uses permitted</u>
<u>152.217</u>	<u>Conditional uses permitted</u>
<u>152.218</u>	<u>Dimensional standards</u>

§ 152.215 PURPOSE.

The FR, Forest Residential, Zone is intended to provide medium size acreages within recreation-residential designated areas while also serving as a buffer between Low Density GF zoned lands and higher density Mountain Residential (MR) land. (Ord. [83-4](#), passed 5-9-83)

§ 152.216 USES PERMITTED.

(A) *Uses permitted outright.* In an FR Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in [ORS 215.203](#) and set out in [§152.003](#), except livestock feed yards, mink farms, poultry farms, the raising of hogs, **and ; the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes;**

MR, MOUNTAIN RESIDENTIAL ZONE

Sub-Sections

<u>152.230</u>	<u>Purpose</u>
<u>152.231</u>	<u>Uses permitted</u>
<u>152.232</u>	<u>Conditional uses permitted</u>
<u>152.233</u>	<u>Dimensional standards</u>

§ 152.230 PURPOSE.

The MR, Mountain Residential, Zone is designed to provide areas for outdoor recreational and related residential development, and is appropriate in areas having a high recreational value, such as beside lakes, rivers and streams, and close to major recreational facilities such as winter sport areas.

(Ord. [83-4](#), passed 5-9-83)

§ 152.231 USES PERMITTED.

(A) *Uses permitted outright.* In a MR Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use as defined in [ORS 215.203](#) and set out in § [152.003](#), excluding livestock feed yards, mink farms, poultry farms, the raising of hogs; **the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes**; and private or public schools;

DI, DEPOT INDUSTRIAL ZONE

Sub-Sections:

<u>152.235</u>	<u>Purpose</u>
<u>152.236</u>	<u>Applicability and subarea descriptions</u>
<u>152.237</u>	<u>Uses permitted</u>
<u>152.238</u>	<u>Conditional uses permitted; general criteria</u>
<u>152.239</u>	<u>Limitations on use</u>
<u>152.240</u>	<u>Master plan and design review</u>
<u>152.241</u>	<u>Dimensional standards</u>

§ 152.235 PURPOSE.

The DI, Depot Industrial, Zone is intended to recognize the regional and statewide significance of the former Umatilla Army Depot (Depot) and to apply appropriate zoning to accommodate planned uses as lands are transferred out of federal ownership.

Leaders of the region (Morrow County, Umatilla County, Morrow and Umatilla Port Districts and Confederated Tribes of the Umatilla Indian Reservation) have been planning for future use of the Depot since the early 1990's. Three overarching goals have guided the planning process for the Depot and are reflected on the consolidated Redevelopment Plan approved by the Umatilla Army Depot Reuse Authority for Morrow and Umatilla Counties.

(A) Military Reuse – accommodating the needs and plans of the Oregon National Guard;

(B) Wildlife Habitat – with a special emphasis on the shrub-steppe habitat; and

(C) Economic Development – job creation and tax base.

The DI Zone will be applied to the portions of the Depot under Umatilla County jurisdiction that are identified for industrial development in the Redevelopment Plan and acknowledged for exceptions to Statewide Planning Goals 11 (Public Facilities & Services) and 14 (Urbanization).

§ 152.239 LIMITATIONS ON USE.

(A) *Retail Sales & Service Uses in the DI Zone.* Retail sales and service uses permitted in the DI Zone are subject to the following limitations:

(1) A maximum of 5 percent of the developable acreage within the Depot Industrial Zone (excluding the restricted area of Subarea 3) may be allocated to retail and service uses.

(2) Retail and service uses may only be located in Subarea 1.

(B) *Use Limitations in Portion of Subarea 3.* Retail sales and service uses permitted in the DI Zone are subject to the following limitations:

(1) A portion of Subarea 3 (Coyote Coulee) will not be available for industrial development because of on-going environmental monitoring requirements and habitat values.

(2) The limited use area is shown with cross-hatch on Figure 1.

(C) *General Limitations on all uses.*

(1) A use is prohibited and shall be in violation of this chapter if it violates an

environmental quality statutes or regulation of the state or federal government.

(2) Materials shall be stored and grounds shall be maintained in such a manner which will not attract or aid in the propagation of insects or rodents or otherwise create a health hazard.

(3) Points of access from a public street or county road to properties in the Depot Industrial Zone shall be located so as to minimize traffic congestion and shall comply with the county Transportation System Plan and obtain necessary Road Access Permits.

(D) The growing, harvesting or processing of marijuana is prohibited in this zone.

RSC, RETAIL/SERVICE COMMERCIAL ZONE

Sub-Sections

<u>152.245</u>	<u>Purpose</u>
<u>152.246</u>	<u>Uses permitted</u>
<u>152.247</u>	<u>Conditional uses permitted</u>
<u>152.248</u>	<u>Limitations on uses</u>
<u>152.249</u>	<u>Design review</u>
<u>152.250</u>	<u>Dimensional standards</u>

§ 152.245 PURPOSE.

The RSC, Retail/Service Commercial, Zone is designed to provide areas outside of urban growth boundaries where specific commercial activities require larger sites than are available inside an urban growth boundary and provide for retail and service- oriented commercial activities to accommodate rural residences.
(Ord. 83-4, passed 5-9-83)

§ 152.248 LIMITATIONS ON USES.

In the RSC Zone, the following limitations and conditions shall apply:

(A) Outside storage areas shall be screened with a site-obscuring fence so that the area shall not be exposed to view from without the property;

(B) Outside display of any scrap or salvage material shall be prohibited.
(Ord. 83-4, passed 5-9-83)

(C) The growing, harvesting or processing of marijuana is prohibited in this zone.

RRSC, RURAL RETAIL/SERVICE COMMERCIAL ZONE

Sub-Sections

<u>152.251</u>	<u>Purpose</u>
<u>152.252</u>	<u>Uses permitted</u>
<u>152.253</u>	<u>Conditional uses permitted</u>
<u>152.254</u>	<u>Limitations on uses</u>
<u>152.255</u>	<u>Design review</u>
<u>152.256</u>	<u>Dimensional standards</u>

§ 152.251 PURPOSE.

The RRSC, Rural Retail/Service Commercial, Zone is designed to comply with Goal 14 and provide areas outside of urban growth boundaries and unincorporated communities where specific commercial activities require larger sites than are available inside an urban growth boundary and provide for retail and service-oriented commercial activities to accommodate rural residences. This zone is applied to commercial lands outside unincorporated communities and urban growth boundaries for which an exception to Goal 14 has not been approved.

The intent of the Rural Retail/Service Zone is to permit the continuation and expansion of existing uses and to provide rural employment opportunities for new uses that are generally rural-scale and low impact. (Ord. [2005-09](#), passed 10-13-05)

§ 152.254 LIMITATIONS ON USES.

In the RRSC Zone, the following limitations and conditions shall apply:

(A) Outside storage areas shall be screened with a site-obscuring fence so that

the area shall not be exposed to view from without the property;

(B) Outside display of any scrap or salvage material shall be prohibited.

(C) Except as provided in Paragraphs D through F of this Section, buildings shall not exceed 3,500 square feet of floor space.

(D) Greenhouses, nurseries, mobile home parks, travel trailer parks, and animal hospitals or veterinary clinics primarily devoted to the treatment of large animals may have buildings in excess of 3,500 square feet of floor space.

(E) New hotels and motels are allowed up to a maximum of 35 units, with no limitation on square footage.

(F) Structures that existed on July 1, 2005 may expand to a building size of 4,500 square feet or to a size that is 50% larger than the building size that existed on July 1, 2005, whichever is larger.

(G) Notwithstanding the size limitations for structures contained in this chapter, a lawfully approved or lawfully constructed structure existing as of July 1, 2005 shall not be considered a non-conforming use, and in the event the structure is destroyed or substantially damaged, the structure may be restored to its prior lawfully approved size. (Ord. [2005-09](#), passed 10-13-05)

(H) The growing, harvesting or processing of marijuana is prohibited in this zone.

CRC, COMMERCIAL RURAL CENTER ZONE

Sub-Sections

<u>152.260</u>	<u>Purpose</u>
<u>152.261</u>	<u>Uses permitted</u>
<u>152.262</u>	<u>Conditional uses permitted</u>
<u>152.263</u>	<u>Limitations on uses</u>
<u>152.264</u>	<u>Dimensional standards</u>

§ 152.260 PURPOSE.

The CRC Commercial Rural Center is designed to provide primary local rural commercial service for rural residences. The purpose of this use zone is to provide standards and review procedures for local rural commercial services that meet the needs of the rural residence and limit any conflicts between these uses and the prevailing rural residential uses. (Ord. [83-4](#), passed 5-9-83; Ord. [2005-09](#), passed 10-13-05)

§ 152.261 USES PERMITTED.

(A) *Uses permitted outright.* In a CRC Zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to § [152.027](#):

(1) Farm use, as defined in [ORS 215.203](#) and set out in §[152.003](#), except livestock feed yards and sale yards; hog or poultry farms; the raising of fur-bearing animals; **the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes**; and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in [ORS 215.203\(2\)\(a\)](#).

TC, TOURIST COMMERCIAL ZONE

Sub-Sections

<u>152.275</u>	<u>Purpose</u>
<u>152.276</u>	<u>Uses permitted</u>
<u>152.277</u>	<u>Conditional uses permitted</u>
<u>152.278</u>	<u>Limitations on uses</u>
<u>152.279</u>	<u>Design review</u>
<u>152.280</u>	<u>Dimensional standards</u>

§ 152.275 PURPOSE.

The TC Tourist Commercial Zone is designed to serve the traveling public along major traffic corridors or at appropriate recreational locations. Facilities may include service station, eating establishments or over-night accommodation. The TC Zone is appropriate along major interstate interchange as discussed in the Comprehensive Plan.

(Ord. [83-4](#), passed 5-9-83)

§ 152.278 LIMITATIONS ON USES.

In the TC Zone, the following limitations on uses shall apply:

(A) Outside storage areas shall be screened with a site-obscuring fence so that the area shall not be exposed to view from the traveling public and surrounding properties;

(B) Storage of scrap or salvage materials shall be prohibited.

(Ord. [83-4](#), passed 5-9-83)

(C) The growing, harvesting or processing of marijuana is prohibited in this zone.

RTC, RURAL TOURIST COMMERCIAL ZONE

Sub-Sections

<u>152.281</u>	<u>Purpose</u>
<u>152.282</u>	<u>Uses permitted</u>
<u>152.283</u>	<u>Conditional uses permitted</u>
<u>152.284</u>	<u>Limitations on uses</u>
<u>152.285</u>	<u>Design review</u>
<u>152.286</u>	<u>Dimensional standards</u>

§ 152.281 PURPOSE.

The RTC Rural Tourist Commercial Zone is designed to serve the traveling public along major traffic corridors or at appropriate recreational locations outside unincorporated communities and urban growth boundaries. Facilities may include service stations, eating establishments or over-night accommodations. The RTC Zone is appropriate along major interstate interchanges as discussed in the Comprehensive Plan. This zone is applied to commercial lands outside unincorporated communities and urban growth boundaries for which an exception to Goal 14 has not been approved.

The intent of the Rural Tourist Commercial Zone is to permit the continuation and expansion of existing uses and to provide rural scale tourism-related employment uses.
(Ord. [2005-09](#), passed 10-13-05)

§ 152.284 LIMITATIONS ON USES.

In the RTC Zone, the following limitations on uses shall apply:

(A) Outside storage areas shall be screened with a site-obscuring fence so that the area shall not be exposed to view from

the traveling public and surrounding properties;

(B) Storage of scrap or salvage materials shall be prohibited.

(C) Except as provided in Paragraphs D and E of this Section, buildings shall not exceed 3,500 square feet of floor space.

(D) Motels and hotels that existed on July 1, 2005 may expand up to 35 units or up to 50% of the number of existing units, whichever is larger, with no limitation on square footage.

(E) Structures that existed on July 1, 2005 may expand to a building size of 4,500 square feet or to a size that is 50% larger than the building size that existed on July 1, 2005, whichever is larger.

(F) Notwithstanding the size limitations for structures contained in this chapter, a lawfully approved or lawfully constructed structure existing as of July 1, 2005 shall not be considered a non-conforming use, and in the event the structure is destroyed or substantially damaged, the structure may be restored to its prior lawfully approved size.
(Ord. [2005-09](#), passed 10-13-05)

(G) The growing, harvesting or processing of marijuana is prohibited in this zone.

AB, AGRI-BUSINESS ZONE

Sub-Sections

<u>152.290</u>	<u>Purpose</u>
<u>152.291</u>	<u>Uses permitted</u>
<u>152.292</u>	<u>Conditional uses permitted</u>
<u>152.293</u>	<u>Limitations on use</u>
<u>152.294</u>	<u>Dimensional standards</u>

§ 152.290 PURPOSE.

The AB Agribusiness Zone is designed to provide areas of certain types of agriculturally oriented businesses and services which may not otherwise need to be located in more intensive commercial or industrial areas. It may be appropriate for storage, handling or processing of agricultural products, or provide area for agriculturally oriented businesses which require larger areas.

(Ord. [83-4](#), passed 5-9-83)

§ 152.291 USES PERMITTED.

(A) *Uses permitted outright.* In an AB Zone, the following uses and their accessory uses are permitted without a zoning permit pursuant:

(1) Farm use as defined in [ORS 215.203](#) and set out in [§152.003](#), except livestock feed yards and sale yards; hog or poultry farms and the raising of fur-bearing animals; **the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes**; and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in [ORS 215.203\(2\)\(a\)](#).

LI, LIGHT INDUSTRIAL ZONE

Sub-Sections

<u>152.301</u>	<u>Purpose</u>
<u>152.302</u>	<u>Uses permitted</u>
<u>152.303</u>	<u>Conditional uses permitted</u> <u>general criteria</u>
<u>152.304</u>	<u>Limitations on use</u>
<u>152.305</u>	<u>Design review</u>
<u>152.306</u>	<u>Dimensional standards</u>

§ 152.301 PURPOSE.

The LI Light Industrial Zone is designed to provide areas for industrial use that are less intensive than heavy industrial uses, and are less offensive to adjacent land uses, and are compatible with certain commercial uses. It is designed to help the county expand and diversify its economic base. The LI Zone is appropriate for areas near major transportation facilities which are generally suited for industry and include highways, railroads, and waterways. (Ord. [83-4](#), passed 5-9-83)

§ 152.304 LIMITATIONS ON USE.

(A) All business, commercial and industrial activities, and storage allowed in an LI, Light Industrial, Zone shall be conducted wholly within a building or shall be screened from view from adjacent public roads or surrounding properties in farm, residential or commercial zones, unless the entire activity is conducted more than 500 feet from said surrounding property or road. Outdoor storage of farm and forest products or equipment shall not be subject to this limitation;

(B) All off-street loading areas shall be

screened from view if adjoining properties are in a residential zone;

(C) All noise, vibration, dust, odor, smoke, appearance or other objectionable factors involved in any activity shall comply with appropriate state and federal regulations. (Ord. [83-4](#), passed 5-9-83; Ord. [2005-09](#), passed 10-13-05)

(D) The growing, harvesting or processing of marijuana is prohibited in this zone.

RLI, RURAL LIGHT INDUSTRIAL ZONE

Sub-sections

<u>152.307</u>	<u>Purpose</u>
<u>152.308</u>	<u>Uses permitted</u>
<u>152.309</u>	<u>Conditional uses permitted;</u> <u>general criteria</u>
<u>152.310</u>	<u>Limitations on use</u>
<u>152.311</u>	<u>Design review</u>
<u>152.312</u>	<u>Dimensional standards</u>

§152.307 PURPOSE.

The RLI Rural Light Industrial Zone is designed to provide areas for industrial uses that are appropriate for rural locations, less intensive than heavy industrial uses, are less offensive to adjacent land uses, and are compatible with certain commercial uses. It is designed to help the county expand and diversify its economic base. The RLI Zone is appropriate for areas near major transportation facilities which are generally suited for industry and include highways, railroads and waterways. This zone is applied to lands zoned industrial prior to January 1, 2004, that are outside unincorporated communities and urban growth boundaries.

The intent of the Rural Light Industrial Zone is to permit the continuation and expansion of existing uses and to provide rural employment opportunities for new uses that are generally rural-scale and low impact or provide for the processing and manufacturing of resource products such as timber and forest related products, farm crops and produce, mineral and aggregate resources, or the maintenance and repair of mechanical equipment related to farm or forest uses.

(Ord. [2005-09](#), passed 10-13-05)

§152.310 LIMITATIONS ON USE.

(A) All business, commercial and industrial activities, and storage allowed in an RLI, Rural Light Industrial, Zone shall be conducted wholly within a building or shall be screened from view from adjacent public roads or surrounding properties in residential or commercial zones, unless the entire activity is conducted more than 500 feet from said surrounding property or road. Outdoor storage of farm and forest products or equipment shall not be subject to this limitation;

(B) All off-street loading areas shall be screened from view if adjoining properties are in a residential zone;

(C) All noise, vibration, dust, odor, smoke, appearance or other objectionable factors involved in any activity shall comply with appropriate state and federal regulations.

(D) A lawfully approved or lawfully constructed structure existing as November 12, 2005 shall not be considered a non-conforming use, and in the event the structure is destroyed or substantially damaged, the structure may be restored to its prior lawfully approved size.

(Ord. [2005-09](#), passed 10-13-05)

(E) The growing, harvesting or processing of marijuana is prohibited in this zone.

LRLI, LIMITED RURAL LIGHT INDUSTRIAL ZONE

Sub-Sections

<u>152.313</u>	<u>Purpose</u>
<u>152.314</u>	<u>Uses permitted</u>
<u>152.315</u>	<u>Conditional uses permitted: general criteria</u>
<u>152.316</u>	<u>Limitations on use</u>
<u>152.317</u>	<u>Design review</u>
<u>152.318</u>	<u>Dimensional standards</u>

§152.313 PURPOSE.

The LRLI, Limited Rural Light Industrial Zone, is designed to provide areas for industrial uses that are appropriate for rural locations, less intensive than heavy industrial uses, are less offensive to adjacent land uses, and are compatible with certain commercial uses. It is designed to help the county expand and diversify its economic base. The LRLI Zone is appropriate for areas near major transportation facilities which are generally suited for industry and include highways, railroads and waterways. This zone is applied to lands zoned industrial outside unincorporated communities and urban growth boundaries after January 1, 2004.

The intent of the Limited Rural Light Industrial Zone is to permit the continuation and expansion of existing uses and to provide rural employment opportunities for new uses that are generally rural scale and low impact or provide for the processing and manufacturing of resource products such as timber and forest related products, farm crops and produce, mineral and aggregate resources, or the maintenance and repair of mechanical equipment related to farm or forest uses.

(Ord. [2005-09](#), passed 10-13-05)

§152.316 LIMITATIONS ON USE.

(A) All business, commercial and industrial activities, and storage allowed in an LRLI, Limited Rural Light Industrial Zone shall be conducted wholly within a building or shall be screened from view from adjacent public roads or surrounding properties in farm, residential or commercial zones, unless the entire activity is conducted more than 500 feet from said surrounding property or road. Outdoor storage of farm and forest products or equipment shall not be subject to this limitation;

(B) All off street loading areas shall be screened from view if adjoining properties are in a residential zone;

(C) All noise, vibration, dust, odor, smoke, appearance or other objectionable factors involved in any activity shall comply with appropriate state and federal regulations.

(D) Expansion of structures that existed on November 12, 2005, shall be permitted under the following circumstances:

(1) If the use is not subject to a size limitation there shall be no limitations on expansion.

(2) If the use is subject to a size limitation, the use may expand to a building size of 40,000 square feet or to a size that is 50% larger than the building size that existed on November 12, 2005, whichever is larger

(E) Notwithstanding the size limitations for structures contained in this section, a lawfully approved or lawfully constructed structure existing as November 12, 2005, shall not be considered a non-conforming use, and in the event the structure is

destroyed or substantially damaged, the structure may be restored to its prior lawfully approved size.

(Ord. [2005-09](#), passed 10-13-05)

(F) The growing, harvesting or processing of marijuana is prohibited in this zone.

HI, HEAVY INDUSTRIAL ZONE

Sub-Sections

<u>152.320</u>	<u>Purpose</u>
<u>152.321</u>	<u>Uses permitted</u>
<u>152.322</u>	<u>Conditional uses permitted; general criteria</u>
<u>152.323</u>	<u>Limitations on use</u>
<u>152.324</u>	<u>Design review</u>
<u>152.325</u>	<u>Dimensional standards</u>

§ 152.320 PURPOSE.

The HI Heavy Industrial Zone is designed to provide for industrial uses where potential conflicts with adjacent land uses will have a minimal negative impact. It is designed to help the county expand and diversify its economic base. The HI Zone is appropriate for areas adjacent to major transportation facilities such as railways, major highways and waterways.

(Ord. 83-4, passed 5-9-83)

§ 152.323 LIMITATIONS ON USE.

(A) A use is prohibited which has been declared a nuisance by statute, by action of Commissioners or by a court of competent jurisdiction;

(B) A use is prohibited and shall be in violation of this chapter if it violates an environmental quality statute or regulation of the state or federal government;

(C) Materials shall be stored and grounds shall be maintained in such a manner which will not attract or aid in the propagation of insects or rodents or otherwise create a health hazard;

(D) Points of access from a public street

or county road to properties in a HI Heavy Industrial Zone shall be located so as to minimize traffic congestion and direct traffic away from residential streets.

(Ord. 83-4, passed 5-9-83)

(E) The growing, harvesting or processing of marijuana is prohibited in this zone.

RHI, RURAL HEAVY INDUSTRIAL ZONE

Sub-Sections

<u>152.326</u>	<u>Purpose</u>
<u>152.327</u>	<u>Uses permitted</u>
<u>152.328</u>	<u>Conditional uses permitted;</u> <u>general criteria</u>
<u>152.329</u>	<u>Limitations on use</u>
<u>152.330</u>	<u>Design review</u>
<u>152.331</u>	<u>Dimensional standards</u>

§152.326 PURPOSE.

The RHI Rural Heavy Industrial Zone is designed to provide for industrial uses that are appropriate for rural locations and where potential conflicts with adjacent land uses will have a minimal negative impact. It is designed to help the county expand and diversify its economic base. The RHI Zone is appropriate for areas adjacent to major transportation facilities such as railways, major highways and waterways.

This zone is applied to industrial lands outside unincorporated communities and urban growth boundaries where an exception to Goal 14 has not been approved. This rural zone will apply to lands that were zoned industrial prior to January 1, 2004.

The intent of the Rural Heavy Industrial Zone is to permit the continuation and expansion of existing uses and to provide rural employment opportunities for new uses that are generally rural-scale and low impact or provide for the processing and manufacturing of resource products such as timber and forest related products, farm crops and produce, minerals and aggregate resources, or the maintenance and repair of mechanical equipment related to farm or forest uses.

(Ord. [2005-13](#), passed 5-31-2005; Ord. [2006-04](#), passed 3-1-2006)

§152.329 LIMITATIONS ON USE.

(A) A use is prohibited which has been declared a nuisance by statute, by action of Commissioners or by a court of competent jurisdiction;

(B) A use is prohibited and shall be in violation of this chapter if it violates an environmental quality statute or regulation of the state or federal government;

(C) Materials shall be stored and grounds shall be maintained in such a manner which will not attract or aid in the propagation of insects or rodents or otherwise create a health hazard;

(D) Points of access from a public street or county road to properties in an RHI Rural Heavy Industrial Zone shall be located so as to minimize traffic congestion and direct traffic away from residential streets.
(Ord. [2005-13](#), passed 5-31-2005; Ord. [2006-04](#), passed 3-1-2006)

(E) The growing, harvesting or processing of marijuana is prohibited in this zone.

LRHI, LIMITED RURAL HEAVY INDUSTRIAL ZONE

Sub-Sections

<u>152.332</u>	<u>Purpose</u>
<u>152.333</u>	<u>Uses permitted</u>
<u>152.334</u>	<u>Conditional uses permitted;</u> <u>general criteria</u>
<u>152.334A</u>	<u>Limitations on use</u>
<u>152.334B</u>	<u>Design review</u>
<u>152.334C</u>	<u>Dimensional standards</u>

§ 152.332 PURPOSE.

The LRHI Limited Rural Heavy Industrial Zone is designed to provide for industrial uses that are appropriate for rural locations and where potential conflicts with adjacent land uses will have a minimal negative impact. It is designed to help the county expand and diversify its economic base. The LRHI Zone is appropriate for areas adjacent to major transportation facilities such as railways, major highways and waterways. This zone is applied to lands outside unincorporated communities and urban growth boundaries zoned after January 1, 2004 for industrial use.

The intent of the Limited Rural Heavy Industrial Zone is to permit the continuation and expansion of existing uses and to provide rural employment opportunities for new uses that are generally rural-scale and low impact or provide for the processing and manufacturing of resource products such as timber and forest related products, farm crops and produce, minerals and aggregate resources, or the maintenance and repair of mechanical equipment related to farm or forest uses.

(Ord. 2006-04, passed 3-1-2006)

§ 152.334A LIMITATIONS ON USE.

(A) A use is prohibited which has been declared a nuisance by statute, by action of Commissioners or by a court of competent jurisdiction;

(B) A use is prohibited and shall be in violation of this chapter if it violates an environmental quality statute or regulation of the state or federal government;

(C) Materials shall be stored and grounds shall be maintained in such a manner which will not attract or aid in the propagation of insects or rodents or otherwise create a health hazard;

(D) Points of access from a public street or county road to properties in an LRHI Limited Rural Heavy Industrial Zone shall be located so as to minimize traffic congestion and direct traffic away from residential streets.

(E) Expansion of structures that existed on the date of this ordinance shall be permitted under the following circumstances:

(1) If the use is not subject to a size limitation there shall be no limitations on expansion.

(2) If the use is subject to a size limitation, the use may expand to a building size of 40,000 square feet or to a size that is 50% larger than the building size that existed on the date of adoption of this ordinance, whichever is larger

(F) Size limits on uses permitted in the LRHI Zone shall not apply to any properties for which an exception to Statewide Planning Goal 14, Urbanization, has been approved.

(G) Notwithstanding the size limitations for structures contained in this ordinance, a lawfully approved or lawfully constructed structure existing as of the effective date of this ordinance shall not be considered a non-conforming use, and in the event the structure is destroyed or substantially damaged, the structure may be restored to its prior lawfully approved size.

(Ord. [2006-04](#), passed 3-1-2006)

(H) The growing, harvesting or processing of marijuana is prohibited in this zone.

FU-10, FUTURE URBAN ZONE

farm uses referred to in [ORS 215.203\(2\)\(a\)](#).

Sub-Sections

<u>152.335</u>	<u>Purpose</u>
<u>152.336</u>	<u>Uses permitted</u>
<u>152.337</u>	<u>Conditional uses permitted</u>
<u>152.338</u>	<u>Limitations on use</u>
<u>152.339</u>	<u>Dimensional standards</u>

§ 152.335 PURPOSE.

The FU-10 Future Urban Zone is designed to implement the growth management policies around the Hermiston Urban Growth Boundary; to provide for interim uses consistent with the plan policies until conversion to urban uses; to retain the land suitable for future urban development in large parcels which will enable more cost effective urban redevelopment of the land. Lots are kept large as urban services are not yet available to these areas and development is limited to the land capability of accepting septic tanks and drainfields while still providing safe drinking water.

(Ord. [83-4](#), passed 5-9-83)

§ 152.336 USES PERMITTED.

(A) *Uses permitted outright.* In a FU-10 Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in [ORS 215.203](#) and set out in § [152.003](#), except livestock feed yards and sales yards; hog or poultry farms; the raising of fur-bearing animals; **the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes**; and except the dwellings and other buildings customarily provided in conjunction with

SECTION 34. (1) Notwithstanding any other provision of law, marijuana is:

"(a) A crop for the purposes of "farm use" as defined in ORS 215.203;"

This establishes that retail marijuana production, as licensed by OLCC, is an agricultural crop that is permitted outright in Exclusive Farm Use (EFU) zones, like any other farm crop. I think, for many counties, this is self-implementing, meaning they probably don't need to amend their land use code. But some may. Point of potential disagreement: Some ODOA and DLCD staff think this section might apply to medical marijuana. It does not. This section was added to and made a part of Measure 91 (2015 Oregon Laws, chapter 1), not the Oregon Medical Marijuana Act (OMMA), or any generally applicable series within ORS. It only applies to retail marijuana production licensed by OLCC.

"(b) A crop for purposes of a "farm" and "farming practice," both as defined in ORS 30.930;"

This establishes that retail marijuana production, as licensed by OLCC, is entitled to the protections and duties provided under the Oregon Right to Farm Act, like any other farm crop. I don't think counties need to amend their land use code to deal with this. Point of potential disagreement: Same as above.

"(c) A product of farm use as described in ORS 308A.062; and"

This establishes that retail marijuana production, as licensed by OLCC, qualifies for farm use deferral under Oregon property tax law, like any other farm crop. I don't think counties need to amend their land use code to deal with this. Point of potential disagreement: Same as above.

"(d) The product of an agricultural activity for purposes of ORS 568.909."

This establishes that retail marijuana production, as licensed by OLCC, is a farm crop that must comply with Oregon water laws applicable to agricultural activities, just like any other farm crop. I don't think counties need to amend their land use code to deal with this. Point of potential disagreement: Same as above.

"(2) Notwithstanding ORS chapters 195, 196, 197 and 215, the following are not permitted uses on land designated for exclusive farm use:

"(a) A new dwelling used in conjunction with a marijuana crop;"

This means you can't use a marijuana crop to establish a right to build a farm dwelling (there is multi-year an income test that would be super easy to meet with a marijuana crop). I don't think counties need to amend their land use code to deal with this.

"(b) A farm stand, as described in ORS 215.213 (1)(r) or 215.283 (1)(o), used in conjunction with a marijuana crop; and"

Pretty straight forward: No marijuana farm stands.

"(c) A commercial activity, as described in ORS 215.213 (2)(c) or 215.283 (2)(a), carried on in conjunction with a marijuana crop."

Primary processing of marijuana at a grow site (production site) is allowed, but not secondary processing (such as hash oil, etc). Those would need to be done by an OLCC licensed marijuana processor at a location approved for such activity. I think, for many counties, this is self-implementing, meaning they probably don't need to amend their land use code. But some may.

"(3) A county may allow the production of marijuana as a farm use on land zoned for farm or forest use in the same manner as the production of marijuana is allowed in exclusive farm use zones under this section and ORS 215.213 and 215.283."

I did not write this subsection, but I know its purpose, which is to allow counties to permit OLCC licensed retail marijuana production in zones other than EFU if other farm crops would be allowed in those other zones, outright or by conditional use (such as rural residential, etc). This language replaced language that I crafted, which was admittedly a bit murky. Point of disagreement: Some ODOA and DLCD staff think this subsection mandates that counties must allow such use in those other zones. That makes no sense to me. If the legislature had wanted to say "shall" they would have said "shall." The statute says "may." In any event, I think counties might want to review their land use code and determine what additional zones that use (OLCC licensed retail marijuana production) would be allowed (with or without a conditional use permit) or prohibited, and then decide if they want to amend their land use code to change or clarify any of those.

"(4)(a) Prior to the issuance of a license under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, the Oregon Liquor Control Commission shall request a land use compatibility statement from the city or county that authorizes the land use. The land use compatibility statement must demonstrate that the requested license is for a land use that is allowable as a permitted or conditional use within the given zoning designation where the land is located. The commission may not issue a license if the land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.

"(b) A city or county that receives a request for a land use compatibility statement under this subsection must act on that request within 21 days of:

"(A) Receipt of the request, if the land use is allowable as an outright permitted use; or

"(B) Final local permit approval, if the land use is allowable as a conditional use.

"(c) A city or county action concerning a land use compatibility statement under this subsection is not a land use decision for purposes of ORS chapter 195, 196, 197 or 215."

I think this one is pretty straight forward. What I wanted to avoid when I crafted this subsection is what has happened with OHA licensing of medical marijuana dispensaries, and with OLCC licensing on the liquor side, where the state agency issues a license, the licensee opens up shop after substantial economic investment, and then everyone finds out too late that the use is not permitted in the zone. That's been a real mess, and counties are tired of cleaning it up. So, under this subsection, for OLCC licensed retail marijuana businesses, a land use compatibility statement (LUCS) from local government is required first, to head off those problems. I don't think counties need to amend their land use codes to deal with this. They will just need to process the LUCS as they come in.

"SECTION 34. (1) Notwithstanding any other provision of law, marijuana is:

"(a) A crop for the purposes of "farm use" as defined in ORS 215.203;"

This establishes that retail marijuana production, as licensed by OLCC, is an agricultural crop that is permitted outright in Exclusive Farm Use (EFU) zones, like any other farm crop. I think, for many counties, this is self-implementing, meaning they probably don't need to amend their land use code. But some may. Point of potential disagreement: Some ODOA and DLCD staff think this section might apply to medical marijuana. It does not. This section was added to and made a part of Measure 91 (2015 Oregon Laws, chapter 1), not the Oregon Medical Marijuana Act (OMMA), or any generally applicable series within ORS. It only applies to retail marijuana production licensed by OLCC.

"(b) A crop for purposes of a "farm" and "farming practice," both as defined in ORS 30.930;"

This establishes that retail marijuana production, as licensed by OLCC, is entitled to the protections and duties provided under the Oregon Right to Farm Act, like any other farm crop. I don't think counties need to amend their land use code to deal with this. Point of potential disagreement: Same as above.

"(c) A product of farm use as described in ORS 308A.062; and"

This establishes that retail marijuana production, as licensed by OLCC, qualifies for farm use deferral under Oregon property tax law, like any other farm crop. I don't think counties need to amend their land use code to deal with this. Point of potential disagreement: Same as above.

"(d) The product of an agricultural activity for purposes of ORS 568.909."

This establishes that retail marijuana production, as licensed by OLCC, is a farm crop that must comply with Oregon water laws applicable to agricultural activities, just like any other farm crop. I don't think counties need to amend their land use code to deal with this. Point of potential disagreement: Same as above.

"(2) Notwithstanding ORS chapters 195, 196, 197 and 215, the following are not permitted uses on land designated for exclusive farm use:

"(a) A new dwelling used in conjunction with a marijuana crop;"

This means you can't use a marijuana crop to establish a right to build a farm dwelling (there is multi-year an income test that would be super easy to meet with a marijuana crop). I don't think counties need to amend their land use code to deal with this.

"(b) A farm stand, as described in ORS 215.213 (1)(r) or 215.283 (1)(o), used in conjunction with a marijuana crop; and"

Pretty straight forward: No marijuana farm stands.

"(c) A commercial activity, as described in ORS 215.213 (2)(c) or 215.283 (2)(a), carried on in conjunction with a marijuana crop."

Primary processing of marijuana at a grow site (production site) is allowed, but not secondary processing (such as hash oil, etc). Those would need to be done by an OLCC licensed marijuana processor at a location approved for such activity. I think, for many counties, this is self-implementing, meaning they probably don't need to amend their land use code. But some may.

"(3) A county may allow the production of marijuana as a farm use on land zoned for farm or forest use in the same manner as the production of marijuana is allowed in exclusive farm use zones under this section and ORS 215.213 and 215.283."

I did not write this subsection, but I know its purpose, which is to allow counties to permit OLCC licensed retail marijuana production in zones other than EFU if other farm crops would be allowed in those other zones, outright or by conditional use (such as rural residential, etc). This language replaced language that I crafted, which was admittedly a bit murky. Point of disagreement: Some ODOA and DLCD staff think this subsection mandates that counties must allow such use in those other zones. That makes no sense to me. If the legislature had wanted to say "shall" they would have said "shall." The statute says "may." In any event, I think counties might want to review their land use code and determine what additional zones that use (OLCC licensed retail marijuana production) would be allowed (with or without a conditional use permit) or prohibited, and then decide if they want to amend their land use code to change or clarify any of those.

"(4)(a) Prior to the issuance of a license under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, the Oregon Liquor Control Commission shall request a land use compatibility statement from the city or county that authorizes the land use. The land use compatibility statement must demonstrate that the requested license is for a land use that is allowable as a permitted or conditional use within the given zoning designation where the land is located. The commission may not issue a license if the land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.

"(b) A city or county that receives a request for a land use compatibility statement under this subsection must act on that request within 21 days of:

"(A) Receipt of the request, if the land use is allowable as an outright permitted use; or

"(B) Final local permit approval, if the land use is allowable as a conditional use.

"(c) A city or county action concerning a land use compatibility statement under this subsection is not a land use decision for purposes of ORS chapter 195, 196, 197 or 215."

I think this one is pretty straight forward. What I wanted to avoid when I crafted this subsection is what has happened with OHA licensing of medical marijuana dispensaries, and with OLCC licensing on the liquor side, where the state agency issues a license, the licensee opens up shop after substantial economic investment, and then everyone finds out too late that the use is not permitted in the zone. That's been a real mess, and counties are tired of cleaning it up. So, under this subsection, for OLCC licensed retail marijuana businesses, a land use compatibility statement (LUCS) from local government is required first, to head off those problems. I don't think counties need to amend their land use codes to deal with this. They will just need to process the LUCS as they come in.



Welcome to
Umatilla County

Tamra Mabbott <tamra.mabbott@umatillacounty.net>

Planning Commission Hearing - Medical Marijuana facilities

Daniels, Katherine <katherine.daniels@state.or.us>

Tue, Jul 21, 2015 at 5:08 PM

To: Gina Miller <gina.miller@umatillacounty.net>

Cc: "Tamra Mabbott (tamra.mabbott@umatillacounty.net)" <tamra.mabbott@umatillacounty.net>

Hi Gina,

Thank you for the opportunity to comment on the county's draft changes to zoning regarding marijuana. The county's approach is a thoughtful one and mostly fine. Following are my comments:

- EFU and GF zones: The county lists the three uses prohibited by HB 3400 under the definition of farm use. While this is OK, these prohibitions might be better located under the respective uses themselves, where applicants are more likely to locate them.
- NR zone: Because HB 3400 defines farm use at ORS 215.203 to include the growing of marijuana and because this zone allows farm use as defined at ORS 215.203, there is no need to separately authorize the growing of marijuana. However, there is also no harm in it.
- Several zones allow farm use as defined at ORS 215.203 except for several specific types of farming: The county has added the growing, harvesting and processing of marijuana to this list of prohibited uses. However, processing is not part of the definition of farm use at ORS 215.203 and so there is no need to add this to the list of prohibited uses.
- Several other zones apparently do not list farm use as an allowed use: The county proposes language that prohibits the growing, harvesting and processing of marijuana in these zones. However, since farm use is not an allowed use in these zones, there is no need to separately prohibit this use. However, there is also no harm in it.

I hope this is helpful.

Katherine

Katherine Daniels, AICP | Farm and Forest Lands Specialist
Community Services Division
Oregon Dept. of Land Conservation and Development
635 Capitol Street NE, Suite 150 | Salem, OR 97301-2540
Direct: (503) 934-0069 | Main: (503) 373-0050 | Fax: (503) 378-5518
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Umatilla County

Department of Land Use Planning



AGENDA

**Umatilla County Planning Commission
Public Hearing
Thursday, July 23, 2015, 6:30 p.m.
Justice Center Media Room
Pendleton, OR**

Members of Planning Commission

Randy Randall, Chair
Gary Rhinhart, Vice-Chair
Tammie Williams
Don Wysocki
David Lee
Don Marlatt
Suni Danforth
Cecil Thorne

Members of Planning Staff

Tamra Mabbott, Planning Director
Carol Johnson, Senior Planner
Bob Waldher, Senior Planner
Brandon Seitz, Assistant Planner

1. Call to Order

2. Continued Hearing:

TEXT AMENDMENT #T-15-062, filed by Umatilla County. The text amendment will amend section 152.003 adopting definitions of medical marijuana and recreational marijuana and amendment to section 152.616(III) adopting conditional use standards and amending zones to clarify that where "farm use" is allowed in zones other than Exclusive Farm Use, farming excludes marijuana activities. Amendments are proposed for each zone. Criteria of approval are found in Umatilla County Development Code 152.750-152.754.

5. Status of Appeals or Board actions.

Next Scheduled Meeting:

Thursday, August 27, 2015, 6:30 p.m., Justice Center Media Room, Pendleton, OR.

Umatilla County

Department of Land Use Planning



DIRECTOR
TAMRA
MABBOTT

July 15, 2015

LAND USE
PLANNING,
ZONING AND
PERMITTING

MEMO

TO: Planning Commission
FROM: Tamra Mabbott
CC: Interested Parties
RE: Second Hearing – Amendments to UCDO
Land Use Standards for Marijuana

CODE
ENFORCEMENT

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

GIS AND
MAPPING

RURAL
ADDRESSING

LIAISON,
NATURAL
RESOURCES &
ENVIRONMENT

July 23, 2015 will be the second (continued) hearing for the purpose of considering amendments to definitions and standards for marijuana growing, processing and dispensing. The amendments encompass both medical and recreational marijuana. Significant changes have been made since the April hearing due to new laws enacted pursuant to adoption of HB3400A. A summary of the bill is attached as exhibit 1 and 2.

COUNTY MARIJUANA ADVISORY COMMITTEE

On July 14, 2015, the County Marijuana Advisory Committee reconvened after a 3 month hiatus, in order to consider HB 3400A and to develop a recommendation to the Board of Commissioners. *By consensus*, the committee made two formal recommendations:

1. Follow the “opt out” provisions set forth in HB 3400A and continue with the moratorium on medical marijuana dispensaries and recreational marijuana dispensaries, and,
2. Adopt land use code changes. The attached draft code language incorporates the changes recommended by the committee.

The July 10 draft recommendation was revised as follows:

Based upon the marijuana committee meeting with representatives of the Oregon Health Authority (OHA) and based upon the experience of several county agencies with the OHA regulatory oversight of medical marijuana dispensaries, and given the evidence shared by committee members, Umatilla County residents are best served by continuing the moratorium on medical marijuana dispensaries. The OHA will be undergoing changes, including rulemaking and administrative changes, pursuant to HB 3400A. That will hopefully result in increased accountability and monitoring of the program. At some time in the future, when OHA program changes appear sufficient to address local concerns about exposure to youth, leakage to the

black market, inadequate monitoring, inadequate testing, changes to federal laws, etc. the county marijuana committee ~~may will~~ reconvene and consider revising the recommendation to support a moratorium on medical marijuana dispensaries. Currently Umatilla County lacks the resources to develop and implement rules and regulations for medical marijuana dispensaries that satisfy committee members.

Given the clear voter position against ~~both medical and~~ recreational marijuana, the committee recommends the county adopt a moratorium on recreational marijuana dispensaries and commercial grow operations.

DEVELOPMENT ORDINANCE AMENDMENTS (UCDO)

The Development Ordinance amendments are summarized in exhibit 6. Two additional notes are warranted. First, legal clarification is pending on the scope of limitations a county has legal authority to impose on land zoned EFU. Staff interpretation of the bill language is the plain interpretation. That is, “a *county may* allow the growing, harvesting and processing of marijuana.” The attached draft language in the EFU and GF Zones would treat marijuana as a farm use. Further information will be shared at the hearing.

Second, the draft zone amendments include language that prohibits marijuana. Please note that nothing in the land use code can legally supersede what is provided for in state law. So, for example, if state law allows an individual to possess marijuana and grow four plants, the county regulation would not prevent that as a matter of privacy and legal right. As written, the proposed code would allow a medical marijuana grow operation for up to four MMJ cardholders on a parcel of land. A land use permit would not be required; however, the grower would be required to obtain a license from the Oregon Health Authority (OHA), a pre-requisite which requires a Land Use Compatibility Statement from the local planning office. Under this regime, a grow site is treated essentially the same as a garden and allowed without a county land use permit. That garden is however, subject to licensing and oversight of the OHA. A grow facility for more than four MMJ cardholders would not be permitted in any zone

EXHIBITS FOR PLANNING COMMISSION PACKET

1. STAFF MEASURE SUMMARY of HB 3400A, pages 3-5
2. AOC Summary of 2015 Oregon Marijuana Legislation, pages 6-7
3. County Ballot results of Measure 91, Legalize Recreational Marijuana, November 2014, page 8.
4. County Ballot results of Measure 67, Medical Marijuana, November, 1998, page 9.
5. July 10, 2015 MEMO to Marijuana Study Committee, page 10.
6. July 15, 2015 Summary of Proposed Amendments, pages 11-14.
7. “State Marijuana Crimes and Offenses in Oregon after July 1, 2015,” pages 15-17.
8. Draft Code Language (changes shown in highlighted color), pages 18 – 44.

Joint Committee On Implementing Measure 91

Fiscal: Fiscal impact issued
Revenue: No revenue impact, statement issued (Indeterminate Impact)
Action Date: 06/15/15
Action: Do Pass The A-Eng Bill.
Meeting Dates: 03/30, 05/20, 05/27, 06/01, 06/03, 06/08, 06/15

Vote:

Senate

Yeas: 5 - Beyer, Burdick, Ferrioli, Kruse, Prozanski

House

Yeas: 5 - Buckley, Helm, Lininger, Olson, Wilson

Prepared By: Adam Crawford, Committee Administrator

WHAT THE MEASURE DOES: Requires Oregon Liquor Control Commission (OLCC) to adopt rules restricting size of mature marijuana canopy. Specifies canopy limits are not applicable to premises licensed to propagate immature plants. Allows OLCC to adopt rules creating tiered system for mature marijuana canopy. Allows OLCC to create license allowing medical marijuana growers to sell immature marijuana plants and usable marijuana to growers, wholesalers, processors and retailers if medical marijuana grower meets specific conditions. Specifies grower licensed by OLCC and registered with Oregon Health Authority (OHA) may not possess more plants than allowable by OHA regulations and must use OLCC seed-to-sale tracking system. Requires licensed marijuana producers (growers), marijuana wholesalers (wholesalers), marijuana processors (processors), and marijuana retailers (retailers) be 21 years of age and resident of Oregon for two years. Repeals provision on January 1, 2020. Allows OLCC to require segregated areas for premises that hold multiple licenses. Requires OLCC to develop seed-to-sale tracking system. Requires growers, wholesalers, processors and retailers licensed by OLCC to use seed-to-sale tracking system when transferring marijuana. Establishes authority for OLCC marijuana regulatory specialists, including authority to inspect, arrest, seize and issue citations. Prohibits inspectors from conducting investigations or inspections for purpose of ensuring compliance with Oregon Medical Marijuana Act (OMMA). Allows OLCC to impose civil penalty of not more than \$5,000 per violation. Requires OLCC to establish system for awarding permits to retail workers participating in sale, possession or securing of marijuana at retail establishment. Requires growers, wholesalers, processors and retailers to maintain surety bond and liability insurance. Defines terms.

Allows city and county governing body to adopt ordinances prohibiting operation or establishment of medical marijuana processors, dispensaries as well as recreational growers, processors, wholesalers or retailers so long as that city or county had at least 55 percent of its electors vote against Measure 91. Requires city or county governing body to adopt ordinance within 180 days of effective date. Provides exemptions from ordinance for medical marijuana processors or retailers if certain conditions are met. Removes exemption if registration of medical marijuana dispensary or processing site is revoked. Requires governing body to submit ordinance to electors for approval. Requires city or county to notify OHA if ordinance is passed.

Establishes Legislative Assembly as sole body with authority to tax and regulate marijuana unless otherwise expressly permitted by state law. Allows cities and counties to establish up to three percent tax on marijuana sold by retailers if approved by electors at statewide election. Establishes Marijuana Control and Regulation Fund.

Allows governing body of city or county to adopt regulations on growers, processors, wholesalers and retailers. Requires regulations be consistent with city and county comprehensive plan, zoning ordinances and public health and safety laws. Confirms marijuana is crop for purposes of exclusive farm use law. Prohibits new dwellings and farm stands in conjunction with marijuana crop on land zoned for exclusive farm use.

Requires OHA and OLCC to require all marijuana items sold by either medical marijuana dispensaries or retailers be tested prior to sale or transfer. Requires OHA, in consultation with OLCC and Oregon Department of Agriculture (ODA), to establish standards for testing marijuana items. Requires OLCC to establish rules for licensing testing lab.

Requires OHA to establish rules for accrediting testing lab. Provides exemptions from testing requirement. Allows OHA to impose civil penalty for violations not exceeding \$500 per day.

Requires OHA and OLCC to require all marijuana items transferred or sold be packaged and labeled in manner that ensures public health and safety. Requires OHA, in consultation with OLCC and ODA, to establish standards for packaging and labeling marijuana items. Prohibits ODA from establishing standards for marijuana as food additive, or considering marijuana an adulterant. Allows OHA to enter into agreement with OLCC to inspect and ensure compliance with labeling and packaging requirements. Provides exemptions from packaging and labeling requirements. Allows OHA to impose civil penalty for violations not exceeding \$500 per day.

Establishes Task Force on Cannabis Environmental Best Practices (Task Force). Establishes Task Force roster and rules. Requires Task Force to study use of electrical and water usage associated with growing marijuana. Requires Task Force to report to committee of Legislative Assembly responsible for regulating cannabis no later than September 15, 2016.

Allows OLCC, in conjunction with OHA and ODA, to establish program identifying and certifying private and public researchers of cannabis.

Requires OHA, State Board of Education and Alcohol and Drug Policy Commission to develop curricula on marijuana abuse prevention. Requires OHA to report to Legislative Assembly on or before February 1, 2016 and on or before February 1 of every odd numbered year thereafter.

Provides exemption to specified licensees from criminal laws of Oregon relating to possession, delivery or manufacture of marijuana. Modifies conditions and class of felony or misdemeanor for specified marijuana laws regarding possession, delivery and production of marijuana.

Requires OLCC to report to Legislative Assembly on or before February 1 of every odd numbered year approximate amount of marijuana produced and sold and whether supply of marijuana in Oregon is commensurate with demand. Requires OLCC to examine available research on influence of marijuana on ability of person to operate vehicle and report to interim committees of Legislative Assembly related to judiciary on or before January 1, 2017.

Requires medical marijuana registry identification cardholders (cardholders), medical marijuana growers (growers), medical marijuana processors (processors) and medical marijuana dispensaries (dispensaries) be registered with OHA. Provides exemptions for licensing. Describes OHA licensing process for cardholders, growers, processors and dispensaries. Requires Oregon residency to receive registry identification card. Requires at least two years of Oregon residency for growers, processors and those persons responsible for dispensaries. Requires OHA to confirm growers, processors, person responsible for marijuana dispensaries are 21 years of age and residents of Oregon for at least two years until January 1, 2020. Limits grower to 24 mature plants if grow site is within city limits and in location zoned for residential use or 96 mature plants if grow site is not in previously described area, so long as grow site was registered with OHA prior to January 1, 2015. Limits grower to 12 mature plants if grow site is within city limits and in location zoned for residential use or 48 mature plants if grow site is not in previously described area if grower registers grow site after December 31, 2014. Limits amount of usable marijuana grower may possess to 12 pounds per outdoor plant or 6 pounds per indoor plant. Requires grower to reduce plant count if specific events occur. Establishes tracking system for growers, processors and dispensaries. Allows OHA to inspect only marijuana grow sites of persons designated to produce marijuana for other cardholders. Allows cardholder to reimburse person responsible for grow site for all costs associated with production of marijuana. Requires OHA to establish by rule, public health and safety standards for processor of cannabinoid edibles, concentrates and extracts. Allows OHA to provide information regarding grow site, processing site or dispensary to law enforcement or regulatory agency of city or county. Prohibits OHA from providing specified information. Requires OHA to provide information to law enforcement agencies if OHA suspends registration, revokes registry or takes disciplinary action against grower, processor or dispensary. Specifies those convicted of Class A or B felony relating to manufacture or delivery of controlled substance may not be designated as person responsible for grow site for two years.

Allows local governments to enact reasonable regulations on grow sites, processing sites and dispensaries. Allows dispensary to remain at current location if school is established within 1,000 feet of dispensary. Allows marijuana processing facilities to be located in residential areas so long as processor does not process cannabinoid extracts.

Establishes January 1, 2016 or March 1, 2016 as operative date for specified parts of measure. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Oregon Medical Marijuana Act provisions
- Requirements for tracking of marijuana
- Recreational marijuana regulatory agencies
- Interaction between medical and recreational markets
- Supply of marijuana currently grown in Oregon

EFFECT OF COMMITTEE AMENDMENT:

Replaces measure.

BACKGROUND:

In 1998, Oregon voters approved Ballot Measure 67 to allow medical use of marijuana within specified limits. The Oregon Medical Marijuana Program (OMMP) under the Oregon Health Authority (OHA) administers the program regulating medical marijuana. The Oregon Medical Marijuana Act (OMMA) governs the OMMP and has been frequently modified since its passage. In 2014, Oregon voters approved Ballot Measure 91 (Measure 91) to allow the recreational sale and use of marijuana.

House Bill 3400 A would require the OHA to create a database that would track the production, processing and transfer of medical marijuana. The measure requires OLCC to create a seed-to-sale tracking system for recreational marijuana and set limits on the size of recreational grow site canopies for mature marijuana plants. House Bill 3400 A also vests sole authority to tax or impose fees on either medical or recreational marijuana with the Legislative Assembly. The measure would also limit the number of plants allowable under the OMMA at individual grow sites within city limits zoned for residential use and at all other sites. House Bill 3400 A also allows local governing boards to adopt ordinances prohibiting marijuana operations within their jurisdiction. However, if a local jurisdiction prohibits any marijuana operation, they cannot receive any funds from marijuana taxation. The measure creates standards for testing laboratories. The measure also requires OHA and OLCC to create rules regarding the packaging and labeling of marijuana items in the medical and recreational markets.

Brief Summary of 2015 Oregon Marijuana Legislation

As of June 30, 2015

1. House Bill 3400A (Omnibus Bill)

A. Local Option (Sections 133 to 136)

- Provides two paths for local opt out of any one or more category of marijuana businesses. There are four retail categories (producer, processor, wholesaler, retailer) and two medical categories (processor and dispensary):
 - 1. Opt out by action of the county or city governing body for counties, and cities in counties, that voted against Measure 91 by at least 55 percent (Baker, Crook, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wheeler).
 - Opt out must be done within 180 days of the effective date of HB 3400A.
 - Grandfathering for existing medical processors and dispensaries that have successfully completed the local land use process.
 - If a county or city opts out of any category, local option tax (*see below*) is prohibited, as well as disqualification for shared state tax revenue (*see below*).
 - 2. Opt out by local vote referred by any county or city governing body.
 - Temporary moratorium until election.
 - Election must be held at the next general election (November of even-numbered year).
 - Grandfathering for existing medical processors and dispensaries that have successfully completed the local land use process.
 - If a county or city opts out of any category, local option tax (*see below*) is prohibited, as well as disqualification for shared state tax revenue (*see below*).

B. Local Time, Place and Manner Regulations (Sections 33 and 89)

- Clarifies reasonable time, place and manner regulatory authority over marijuana businesses.

C. Land Use (Section 34)

- Marijuana given status as a farm crop.
- In EFU zones, prohibits farm stands, farm commercial activities, and new farm dwellings based on marijuana crops.
- Allows counties to permit marijuana crops in farm and forest zones, similar to EFU.
- Requires a completed Land Use Compatibility Statement (LUCS) from local government prior to issuance of marijuana business license by OLCC.

D. Local Option Tax (Section 34a)

- Allows local tax on sale of retail marijuana items, if approved by local voters at a general election, not to exceed 3 percent.
- Prohibits local option tax if city or county prohibits any category of marijuana business.

E. OLCC

- Expands powers and duties relating to regulation, investigation, and enforcement with regard to OLCC licensed marijuana businesses.
- Requires handler permit for employees of retail marijuana businesses that handle marijuana.
- Requires a seed-to-sale tracking system.
- Allows OLCC to require age verification scanners for licensed retail stores.
- Provides for state licensed testing laboratories to test all retail marijuana products.
- Provides for packaging, labeling, and dosage standards.
- Provides for state certified public and private research facilities.
- Allows medical marijuana growers to opt-in to the retail marijuana supply chain to sell excess medical marijuana, subject to licensing and regulation by OLCC.

F. OMMA

Tracking

- Requires registration and tracking of all grow sites, processing sites, and dispensaries in an OHA database.
- Requires designated growers, processors, and dispensaries to submit monthly information to the database regarding amounts possessed and transferred.
- Permits law enforcement, and city and county regulatory agencies, to access database, except for transaction information, which requires a subpoena.

Growers and Processors

- Requires registration of designated grow sites and processing sites.
- Prohibits persons convicted of certain drug crimes from being the designated person responsible for a site

- Authorizes OHA to inspect sites, and records related to those sites.
- Authorizes OHA to revoke the registration of a site for violation of the OMMA, or local time, place, and manner ordinances.
- Limits the number of plants that may be grown at a single address:
 - 12 mature plants in residential zone in city, with up to 24 for grandfathered sites.
 - 48 mature plants in all other zones, with up to 96 for grandfathered sites.
- Allows designated grower to possess usable marijuana at the rate of 12 pounds per mature outdoor plant, and 6 pounds per mature indoor plant.
- Allows cardholder to assign a portion of the cardholder's possession rights to their designated grower.
- Prohibits marijuana extract processing sites in residential zones.

Dispensaries

- Authorizes OHA to revoke the registration of a dispensary for violation of the OMMA, or local time, place, and manner ordinances.
- Prohibits dispensaries in residential zones.
- Allows dispensary to remain registered if a school opens within 1,000 feet of the dispensary after the dispensary is already operating.

Products and Testing

- Provides for testing of all marijuana items, and requires testing laboratories to be licensed by OHA.
- Provides OHA with regulatory authority over testing, and the production of edibles, extracts, concentrates, and other products.
- Imposes requirements for labeling and packaging.

G. Further Reduction in Marijuana Offense Levels (*see separate pamphlet*)

2. Senate Bill 460A ("Early Start")

- Allows medical marijuana dispensaries to sell limited marijuana retail products, beginning October 1, 2015
 - Seeds.
 - Dried leaves and flowers.
 - Plants that are not flowering.
- Limits amount that can be sold to each customer.
- Allows cities and counties to prohibit these retail sales by ordinance.

House Bill 2041A (Retail Taxation)

- State tax on sale of retail products, in lieu of Measure 91 tax on grower products:
 - 17% tax rate (but see "Early Start" special rate below).
- Retains net distribution formula from Measure 91
 - 40% to the Common School Fund.
 - 25% to substance abuse treatment and prevention.
 - 15% to the Oregon State Police.
 - 10% to cities, and 10% to counties, to assist with enforcing Measure 91.
- Disqualifies a city or county from receiving any distribution if the city or county prohibits any one or more of the six categories of marijuana business licensees.
- "Early Start" special tax rate:
 - 25% tax rate, beginning January 4, 2016.

4. Senate Bill 844A (Miscellaneous)

- Research task force
- Reduces expunction waiting period from three years to one year for person adjudicated or convicted of marijuana offenses when they were under 21.
- Changes OMMA "agitation incident to Alzheimer's disease" qualifying condition to "a degenerative or pervasive neurological condition."
- Allows certain medical organizations to be a designated OMMA caregiver.
- Prohibits transplant hospitals from discriminating against OMMA cardholders.

5. House Bill 2668B (Hemp)

- No growing within 1,000 feet of a school
- Hemp growers to allow research by DOA/OSU
- DOA Rules Advisory Committee (RAC)
- No more hemp licenses until March 1, 2017

City results for Measure 91- Legalize Recreational Marijuana

	<u>Yes</u>	<u>No</u>	% of passed or failed
Umatilla	285	417	59.4% F
Pilot Rock	148	249	66.1% F
Ukiah	31	58	65.2% F
Hermiston	1255	2056	62.1% F
Milton-Freewater	426	704	62.3% F
Pendleton	2141	2715	55.9% F
Stanfield	184	291	61.3% F
Echo	78	85	52.1% F
Helix	28	39	58.2% F
Adams	39	76	66.1% F
Ukiah	24	42	63.6% F
Athena	156	295	65.4% F
Weston	97	92	51.3% P
<hr/>			
Overall Cities	4892	7119	59.3%F
Rural County	2289	5003	68.6%Failed
Total			
Umatilla County	7181	12122	62.8%F

Umatilla County voter turnout was 61.77%

Statewide turnout was 70.90%

November 3, 1998-State Measure 67 Allows medical use of marijuana

City statistics are not available for all cities for this measure. The precincts containing these cities are not totally dedicated to city boundaries. Results for individual measures in these precincts must be done by hand. (The ballots are long gone).

<u>City</u>	<u>Yes vote</u>	<u>No Vote</u>	<u>% of pass or fail</u>
City of Umatilla	235	249	51.4% Failed
City of Pilot Rock	163	224	57.9% F
City of Hermiston	998	1260	55.8% F
Milton-Freewater	539	554	50.7% F
City of Pendleton	1846	2218	54.6% F
<hr/>			
Overall Tallied Cities	3781	4505	54.4% F
Remaining Cities			
Plus Rural	2827	3406	54.6% F
Total County	6608	7911	54.5% F


This Election had a voter turnout of 46.6% for Umatilla County

Voter Participation Statewide was 59.02%

July 10, 2015

MEMO

TO: Medical Marijuana Study Committee

FROM: Tamra Mabbott, Chair 

RE: HB 3400A

House Bill 3400A, passed by the Oregon Legislature, made numerous changes to medical marijuana laws and recreational marijuana laws. This is the legislation we have been long awaiting. We can now reconvene and move forward with our charter, to make recommendations to the Board of Commissioners on a moratorium and other matters relating to marijuana.

Among the more significant changes, the new law allows a "qualifying city or county" the option to adopt ordinances that prohibit the establishment of marijuana related activities. In November 2014, Umatilla County voters were 68.6% against Measure 91. In 1998, Umatilla County voters rejected Measure 67, the medical marijuana bill, with a 54.5% vote.

The county now has the legal authority to continue a moratorium on both recreational marijuana and medical marijuana. All committee recommendations will require a vote of the committee.

In an effort to move our collective efforts forward, and in hopes of reaching a consensus, draft recommendations are provided below as a starting point for our discussion on Tuesday.

I. DRAFT RECOMMENDATION - GENERAL

Based upon the marijuana committee meeting with representatives of the Oregon Health Authority (OHA) and based upon the experience of several county agencies with the OHA regulatory oversight of medical marijuana dispensaries, and given the evidence shared by committee members, Umatilla County residents are best served by continuing the moratorium on medical marijuana dispensaries. The OHA will be undergoing changes, including rulemaking and administrative changes, pursuant to HB 3400A. That will hopefully result in increased accountability and monitoring of the program. At some time in the future, when OHA program changes appear sufficient to address local concerns about exposure to youth, leakage to the black market, inadequate monitoring, inadequate testing, changes to federal laws, etc. the county marijuana committee may reconvene and consider revising the recommendation to support a moratorium.

Given the clear voter position against both medical and recreational marijuana, the committee recommends the county adopt a moratorium on recreational marijuana dispensaries and commercial grow operations.

II. DRAFT RECOMMENDATION – LAND USE

Please see attached land use code amendments.

III. OTHER

July 15, 2015

Summary of Proposed Amendments to Umatilla County Development Ordinance

I. Definitions UCDO Section 152.003

The following are proposed amendments/additions to the definition section of the UCDO Section 152.003.

152.003 Medical Marijuana Dispensary (MMJ) or Laboratory.

A Medical Marijuana Dispensary shall be the same as defined in OAR 333-008-1050 and licensed by the Oregon Health Authority and registered as a business with the Office of the Secretary of State.

152.003 Medical Marijuana (MMJ) Grow Facility or Operation property.

A Medical Marijuana (MMJ) Grow Site or Grow operation shall be the same as defined in OAR 333 Division 8 where a single parcel of land is used as a grow operation for more than four MMJ cardholders (or patients). A medical marijuana grow facility may also be defined as an operation (single parcel of land) where marijuana is grown for four or more medical marijuana cardholders or persons who consume marijuana for medical purposes.

152.003 Medical Marijuana Processing Facility.

A Medical Marijuana Processing Facility is a place where marijuana is processed for human consumption.

152.003 Pain Management Clinic.

A pain management clinic is a business or clinic where professional treatment is provided to persons who have chronic pain or addictions.

152.003 Recreational Marijuana.

Recreational marijuana is marijuana consumed for non-medical purposes. The definition shall be the same as defined in (Measure 91, Oregon Revised Statutes) and as subsequently amended in Oregon Revised

Statute. The growing, harvesting or processing of marijuana for recreational purposes is considered a for-profit business.

152.003 Recreational Marijuana Business.

A recreational marijuana facility or business is a place where marijuana is sold or traded for profit and intended for non-medical purposes.

152.003 Hemp or Industrial Hemp.

Hemp or industrial hemp shall have the same meaning as defined in ORS 571.305. Growing of Hemp requires a permit from the Oregon Department of Agriculture. Hemp is prohibited in residential zones.

152.003 Farm Use.

UCDO definition of farm Use¹ is the same as ORS 215.203. HB 3400A Section 34 makes clear that marijuana is a farm use as defined in ORS 215.203.²

¹ FARM USE. (as defined in ORS 215.203) (1) The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding, management, and sale of, or the produce of livestock, poultry, fur-bearing animals or honeybees, or for dairying and the sale of dairy products or any agriculture or horticulture use; animal husbandry or any Umatilla County Development Code, Revision Date: April 28, 2015, Page 23 of 436 combination thereof. FARM USE includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. FARM USE also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines, including but not limited to providing riding lessons, training clinics and schooling shows. FARM USE also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. It does not include the use of land subject to the provisions of ORS Chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subdivision (3) of this definition or land as defined in ORS 321.267 (3) or 321.824 (3). (2) CURRENT EMPLOYMENT OF LAND FOR FARM USE means: (a) Farmland, the operation or use of which is subject to any farm-related government program; (b) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry; (c) Land planted in orchards or other perennials, other than land specified in subdivision (2) (d) of this definition, prior to maturity; (d) Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees, or vineyards for at least three years; (e) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable or grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use; (f) Except for land under a single family dwelling, land under buildings supporting accepted farm practices, including the processing facilities allowed by ORS 215.283 (1)(u) and the processing of farm crops into biofuel as commercial activities in conjunction with farm use under ORS 215.283 (2)(a); (g) Water impoundments lying in or adjacent to and in common ownership with farm use land; (h) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of the land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use. (i) Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer's immediate family. For purposes of the paragraph, illness includes injury or infirmity whether or not such illness results in death; (j) Any land described under ORS 321.267 (3) or 321.824 (3); (k) Land used for the processing of farm crops into biofuel, as defined in § 152.003 as BIO-FUEL, if: (i) Only the crops of the landowner are being processed; Umatilla

II. Zones

HB 3400A allows a county to prohibit a medical marijuana dispensary or laboratory, a medical marijuana grow facility or grow operation.

A. **Residential Zones** – See attached proposed amendments.

B. **Commercial and Industrial Zones** – See attached proposed amendments.

C. **Exclusive Farm Use (EFU) Zones.** HB 3400A defines marijuana as a farm crop. However, the law also provides that a “county may (emphasis added) allow the production of marijuana as a farm use on land zoned for farm or forest use in the same manner as the production of marijuana is allowed in EFU zones under this section and ORS 215.213 and 215.283. HB 3400A Section 34(3). Further legal opinion on this is pending, however, it may be that a county may be allowed to prohibit growing marijuana as a crop in the EFU Zone.

What is clear in the bill, relative to EFU Zones, are three land uses that are prohibited in the EFU Zone. Section 34(1) lists the following uses that are prohibited in the EFU Zone:

- (a) A new dwelling used in conjunction with a marijuana crop;
 - (b) A farm stand, as described in ORS 215.213(1)(r) or 215.283(1)(o), used in conjunction with a marijuana crop;
- and

County Development Code, Revision Date: April 28, 2015, Page 24 of 436 (ii) The biofuel from all of the crops purchased for processing into biofuel is used on the farm of the landowner; or, (iii) The landowner is custom processing crops into biofuels from other landowners in the area for their use or sale

² HB 3400A Section 34. (1) Notwithstanding any other provision of law, marijuana is:

- (a) A crop for the purposes of ‘farm use’ as defined in ORS 215.203;
- (b) (b)A crop for purposes of a ‘farm’ and ‘farming practice,’ both as defined in ORS 30.930; A product of farm use as described in ORS 308A.062; and The product of an agricultural activity for purposes of ORS 568.909.

(c) A commercial activity, as described in ORS 215.213(2)(c) or 215.283(2)(a)m, carried on in conjunction with a marijuana crop.

See attached proposed amendments.

D. Grazing Farm Zone (GF). Umatilla County GF Zone is a mixed farm and forest zone. See notes above relative to HB 3400A Section 34 (3).

E. Other Zones. – See attached proposed amendments.

State Marijuana Crimes and Offenses in Oregon after July 1, 2015
(and also assuming passage of HB 3400A)

DRAFT

11/6/2014

and

6/16/2015

Unlawful possession of marijuana (ORS 475.864, as amended by Measure 91, Section 79)

Person under 21

Leaves, stems, flowers

< 1 ounce	Violation	ORS 475.864(3)(c)
1 to [4] 8 ounces	B Misdemeanor	ORS 475.864(3)(b), HB 3400A §123
[4] 8 ounces or more	<i>[C Felony]</i> A Misdemeanor	ORS 475.864(3)(a) HB 3400A §123

Products

<i>[< 1/4 ounce]</i> 16 ounces or more of solid or 72 ounces or more of liquid	B Misdemeanor	ORS 475.864(4)(b), HB 3400A §123
<i>[1/4 ounce or more]</i> > 16 ounces of solid or more than 72 ounces of liquid	<i>[C Felony]</i> A Misdemeanor	ORS 475.864(4)(a) HB 3400A §123

Person 21 and older *(who is not an OLCC licensee)*

> 1 ounce in public place	}	<i>See immediately below</i>
> 8 ounces		
> 16 ounces of solid products		
> 72 ounces of liquid products		
> 1 ounce of extracts		

Not > 2 times the amount	B Violation	ORS 475.864(7)(c)
> 2 times the amount	B Misdemeanor	ORS 475.864(7)(b)
> 4 times the amount	<i>[C Felony]</i> A Misdemeanor	ORS 475.864(7)(a) HB 3400A §123

Extract not purchased from OLCC retailer

Not > 1/4 ounce	B Misdemeanor	ORS 475.864(8)(b)
> 1/4 ounce	C Felony	ORS 475.864(8)(a)

Unlawful delivery of marijuana (ORS 475.860, as amended by Measure 91, Section 78)

Delivery of non-homemade marijuana or product by non-licensee

<i>[For consideration]</i> All other	<i>[B Felony]</i> A Misdemeanor	ORS 475.860(2)(a), HB 3400A §122(2)
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For no consideration

< 5 grams of leaves, stems, flowers	Violation	HB 3400A §122(3)(b)
<i>[To adult within 1,000' school]</i>	C Misdemeanor	ORS 475.860(4)(b)]
<i>[Other]</i>	Violation	ORS 475.860(3)(b)]
< 1 ounce of leaves, stems, flowers	<i>[A Misdemeanor]</i> A Violation	ORS 475.860(3)(a), HB 3400A §122(3)(a)
<i>[All other]</i>	C Felony	ORS 475.860(2)(b)]
To person < 18 by person <i>[>3 years]</i> 21 or older	<i>[A]</i> C Felony	ORS 475.860(4)(a), HB 3400A §122(4)

Delivery of homemade marijuana or homemade products (other than extracts) to person over 21
 > 1 ounce
 > 16 ounces of solid products
 > 72 ounces of liquid products
 Any amount of extract

} See immediately below

Same as above for delivery of non-homemade marijuana or product by non-licensee

Unlawful delivery of marijuana within 1,000 feet of a school (ORS 475.862; unamended by M91)
(except for licensees, and personal allowances) A Felony ORS 475.862
HB 3400A §119

Unlawful manufacture of marijuana (ORS 475.856, as amended by Measure 91, Section 77)

Manufacture by non-licensee that is 21 or older

> 4 plants but not > 8 plants
 > 8 plants
 > 16 ounces of solid products
 > 72 ounces of liquid products
 Any amount of extract

B Misdemeanor ORS 475.856(3)
 [B] C Felony ORS 475.856(2),
HB 3400A §121

Manufacture by person under 21

[B] C Felony ORS 475.856(2),
HB 3400A §121

Use of Marijuana while Driving B Violation M91 §73

Unlawful manufacture of marijuana within 1,000 feet of a school (ORS 475.858; unamended by M91)
(except for licensees, and personal allowances) A Felony ORS 475.858,
HB 3400A §119

Use of minor in controlled substance offense (ORS 167.262; unamended by M91)

Manufacture, transport, delivery

< 5 grams for no consideration
 Other

A Misdemeanor ORS 167.262(1)/(2)(b)
 A Felony ORS 167.262(1)/(2)(a)

Other (for Licensee by CLCC)

Failure to pay marijuana tax

[B] A Misdemeanor M 91 §40(1)(a), [§69(2)]
HB 3400A §66, §77

Falsifying marijuana tax record

[B] A Misdemeanor M 91 §40(1)(b), [§69(2)]
HB 3400A §66, §77

Records offenses

A Misdemeanor M 91 §40(2), §69(1)

Refusal to permit inspection
 Failure to keep
 Failure to retain for at least two years
 Falsifying

Importing or exporting marijuana item by licensee

For no consideration A Misdemeanor M 91 §45(2)(b)
 For consideration C Felony M 91 §45(2)(a)

Giving marijuana item as prize	A Misdemeanor	M 91 §46, §69(1)
Providing marijuana to visibly intoxicated person	A Misdemeanor	M 91 §47(1), §69(1)
Permitting person under 21 to consume	A Misdemeanor	M 91 §47(2), §69(1)
False statement to OLCC to induce or prevent action	A Misdemeanor	M 91 §48(1), §69(1)
Noisy, lewd, disorderly, or insanitary licensed premises	A Misdemeanor	M 91 §48(2), §69(1)
Licensee supplying impure or deleterious item	A Misdemeanor	M 91 §48(2), §69(1)
Licensee misrepresenting marijuana item	A Misdemeanor	M 91 §48(3), §69(1)
<i>[Attempted purchase by person under 21</i>	<i>B Violation</i>	<i>M 91 §49(1) and (3)]</i>
Possession, consumption, by person under 21	B Violation	M 91 §49(1) and (3), HB 3400A §25
Entry of posted licensed premises by person under 21	B Violation	M 91 §49(2) and (3)
Licensee offering to sell item not in compliance	A Misdemeanor	M 91 §50(1), §69(1)
Mislabeling or deceptive labelling by licensee	A Misdemeanor	M 91 §51, §69(1)
Licensee employing someone under the age of 21	A Misdemeanor	M 91 §52, §69(1)
Licensee (other than producer) possession or sale of mature marijuana plant	A Misdemeanor	M 91 §53, §69(1)
Use in public place	B Violation	M 91 §54
<i>[Possession in correctional facility</i>	<i>B Violation</i>	<i>M 91 §55]</i>
		HB 3400A §137
Homegrown or homemade in view from public place	B Violation	M 91 §56
Produce, process, or store homemade extracts	A Misdemeanor	M 91 §57, §69(1)
Violation of OLCC rule	C Violation	M 91 §69(3)
Other violation of M91	A Misdemeanor	M 91 §69(1)

EFU, EXCLUSIVE FARM USE ZONE

Sub-Sections

<u>152.055</u>	<u>Description and purpose</u>
<u>152.056</u>	<u>Uses permitted outright</u>
<u>152.057</u>	<u>Uses permitted with a farm use exempt permit</u>
<u>152.058</u>	<u>Uses permitted with a zoning permit</u>
<u>152.059</u>	<u>Land Use Decisions</u>
<u>152.060</u>	<u>Conditional uses permitted</u>
<u>152.061</u>	<u>Limitations on conditional uses</u>
<u>152.062</u>	<u>Parcel sizes</u>
<u>152.063</u>	<u>Development standards</u>

§ 152.055 DESCRIPTION AND PURPOSE.

The purposes of the EFU, Exclusive Farm Use Zone, are to preserve and maintain agricultural lands for farm use, including range and grazing uses, consistent with existing and future needs for agricultural products, forest and open spaces; to conserve and protect scenic resources; to maintain and improve the quality of air, water and land resources of the county and to establish criteria and standards for farm and non-farm uses and related and supportive uses which are deemed appropriate. It is also the purpose of this use zone to provide the automatic farm use valuation for farms, which qualify under the provisions of [ORS Chapter 308](#).

The provisions in this use zone are subject to automatic legislative amendments as described in [§152.004](#).
(Ord. [2005-02](#), passed 1-5-05; Ord. [2012-02](#) passed 1-26-12)

§ 152.056 USES PERMITTED OUTRIGHT.

In an EFU zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to [§ 152.007](#):

(A) Farm use, as defined in [ORS 215.203](#) and set out in [§ 152.003](#), except the dwellings and other buildings customarily provided in conjunction with farm use referred to in [ORS 215.283\(1\)](#). For the purpose of this section, farm use does not include customary accessory uses and structures (e.g. corrals, pens, barns, sheds, maintenance buildings, farm owned or personal use grain bins or elevators and chemical storage), which are permitted subject to approval of a zoning permit per [§ 152.026](#).

Notwithstanding (A) above, the following are not permitted uses in the EFU Zone:

- (1) A new dwelling used in conjunction with a marijuana crop;**
- (2) A farm stand in conjunction with a marijuana crop; and**
- (3) A commercial activity carried on in conjunction with a marijuana crop.**

GF, GRAZING/FARM ZONE

Sub-Sections

<u>152.080</u>	<u>Description and purpose</u>
<u>152.081</u>	<u>Uses permitted outright</u>
<u>152.082</u>	<u>Uses permitted with a farm exempt permit</u>
<u>152.083</u>	<u>Uses permitted with a zoning permit</u>
<u>152.084</u>	<u>Land Use Decisions</u>
<u>152.085</u>	<u>Conditional uses permitted</u>
<u>152.086</u>	<u>Limitations on conditional uses</u>
<u>152.087</u>	<u>Parcel sizes</u>
<u>152.088</u>	<u>Development standards</u>
<u>152.089</u>	<u>General siting and fire siting standards</u>

§ 152.080 DESCRIPTION AND PURPOSE.

The GF, Grazing/Farm, Zone is designed to protect grazing lands, forest uses, and inclusions of agricultural land that are found within the county's mixed use farm/forest areas. The predominant use of the land is for grazing of livestock; however, there are some areas that are under agricultural cultivation and other areas where forest uses occur. The zone is also designed to conserve and protect watersheds, wildlife habitat and scenic values and views within the Blue Mountains. Certain land uses may be allowed conditionally. It is also the purpose of this zone to provide the automatic farm use valuation for farms and ranches which qualify under the provisions of [ORS Chapter 308](#). Please see definition of farm use in [§ 152.003](#).

§ 152.081 USES PERMITTED OUTRIGHT.

In a GF Zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to §§ [152.007](#):

- (A) Farm use, as defined in [ORS 215.203](#) and [§ 152.003](#), except the dwellings and other buildings customarily provided in conjunction with farm use referred to in [ORS 215.283\(1\)](#). For the purpose of this section, farm use does not include customary accessory uses and structures (e.g. corrals, pens, barns, sheds, maintenance buildings, farm owned or personal use grain bins or elevators and chemical storage), which are permitted subject to approval of a zoning permit per [§ 152.026](#).

Notwithstanding (A) above, the following are not permitted uses in the GF Zone:

- (1) A new dwelling used in conjunction with a marijuana crop;**
- (2) A farm stand used in conjunction with a marijuana crop; and**
- (3) A commercial activity carried on in conjunction with a marijuana crop.**

NR, NON-RESOURCE ZONE

(Ord. [2000-10](#), passed 10-18-00)

Su-Sections

<u>152.100</u>	<u>Purpose</u>
<u>152.101</u>	<u>Applicability</u>
<u>152.102</u>	<u>Uses Permitted</u>
<u>152.103</u>	<u>Conditional Uses Permitted</u>
<u>152.104</u>	<u>Limitations on Use</u>
<u>152.105</u>	<u>Development/Dimensional Standards</u>
<u>152.106</u>	<u>Site Plan Review</u>

§152.100 PURPOSE

The NR (Non-Resource) Zone is designed to allow for the development of residential and recreational uses on land that is not suitable for resource uses while protecting open space and natural resource values. The zone is designed to implement the Non-Resource (NR) land use designation of the Comprehensive Plan.

The purposes of the NR zone are to:

(1) Allow rural development densities, while preserving large areas of open space by clustering development;

(2) Avoid the creation of new urban areas; and

(3) Allow very large lot development which preserves sensitive areas and a sense of open space.

(Ord. [2000-10](#), passed 10-18-00)

§152.101 APPLICABILITY

The Non-Resource Zone applies to lands that are designated Non-Resource (NR) in the Comprehensive Plan.

§152.102 USES PERMITTED

(A) *Uses permitted outright.* In a NR Zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to §[152.027](#): farm use, as defined in [ORS 215.203](#) and set out in §[152.003](#), except livestock feed yards and sale yards; hog or poultry farms and the raising of fur-bearing animals or hogs; **the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes**; and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in [ORS 215.203\(2\)\(a\)](#).

UC, UNINCORPORATED COMMUNITY ZONE

Sub-Sections

<u>152.115</u>	<u>Purpose</u>
<u>152.116</u>	<u>Uses permitted</u>
<u>152.117</u>	<u>Conditional uses permitted</u>
<u>152.118</u>	<u>Limitations on use</u>
<u>152.119</u>	<u>Dimensional standards</u>

ORS 215.203(2)(9). For the purpose of this section, **FARM USE** includes customary accessory uses (e.g. corrals, pens, barns, sheds, maintenance buildings, farm owned or personal use grain bins or elevators, or personal use chemical storage facilities);

§ 152.115 PURPOSE.

The UC, Unincorporated Community, Zone is designed to provide for the continuation and in filling of the small rural trading centers in the county that are located at some distance from developed or developing urban areas. The purpose of this use zone is to provide for needed facilities and services to maintain rural life styles while preserving the natural resources which are adjacent to these designated areas and to maintain the viability of incorporating these communities.

(Ord. 83-4, passed 5-9-83; Ord. 2008-09, passed 6-16-08)

§ 152.116 USES PERMITTED.

(A) *Uses permitted outright.* In a UC Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in ORS 215.203 and set out in § 152.003, except livestock feed yards and sales yards; hog or poultry farms and the raising of fur-bearing animals or hogs; **the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes**; and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in

RR-2, RURAL RESIDENTIAL ZONE

Statutes; and except the dwelling and other buildings customarily provided in conjunction with farm use referred to in ORS 215.203(2)(a).

Sub-Sections

<u>152.130</u>	<u>Purpose</u>
<u>152.131</u>	<u>Uses permitted</u>
<u>152.132</u>	<u>Conditional uses permitted</u>
<u>152.133</u>	<u>Limitations on use</u>
<u>152.134</u>	<u>Dimensional standards</u>

§ 152.130 PURPOSE.

The RR-2, Rural Residential, Zone is designed to provide lands to enhance the value of rural living and maintain a rural residential atmosphere while accommodating the demand for rural residences. Lots need to be sufficiently large to accommodate private wells and sewage disposal systems as well as gardens and farm animals. Standards for rural land use and development consistent with desired rural character and the capability of the land and natural resources are provided. The zone is applied to areas committed to non-resource use or needed for rural residential land use as provided for in the Comprehensive Plan.
(Ord. 83-4, passed 5-9-83)

§ 152.131 USES PERMITTED.

(A) *Uses permitted outright.* In a RR-2 Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in ORS 215.203 and set out in § 152.003, except livestock feed yards and sale yards; hog or poultry farms and the raising of fur-bearing animals or hogs; **the growing, harvesting and processing of marijuana in accordance with Oregon Revised**

RR-4, RURAL RESIDENTIAL ZONE

the dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.203(2)(a).

Sub-Sections

<u>152.155</u>	<u>Purpose</u>
<u>152.156</u>	<u>Uses permitted</u>
<u>152.157</u>	<u>Conditional uses permitted</u>
<u>152.158</u>	<u>Limitations on use</u>
<u>152.159</u>	<u>Dimensional standards</u>

§ 152.155 PURPOSE.

The RR-4, Rural Residential, Zone is designed to provide lands to enhance the value of rural living and maintain a rural residential atmosphere while accommodating the demand for rural residences. Lots need to be sufficiently large to accommodate private wells and sewage disposal systems as well as gardens and farm animals. Standards for rural land use and development consistent with desired rural character and the capability of the land and natural resources are provided. The zone is applied to areas committed to non-resource use or needed for rural residential land use as provided for in the Comprehensive Plan.

(Ord. 83-4, passed 5-9-83)

§ 152.156 USES PERMITTED.

(A) *Uses permitted outright.* In a RR-4 Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in ORS 215.203 and set out in § 152.003, except livestock feed yards and sale yards; hog or poultry farms and the raising of fur-bearing animals or hogs; **the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes**; and except

RR-10, RURAL RESIDENTIAL ZONE

Sub-Sections

<u>152.160</u>	<u>Purpose</u>
<u>152.161</u>	<u>Uses permitted</u>
<u>152.162</u>	<u>Conditional uses permitted</u>
<u>152.163</u>	<u>Limitations on use</u>
<u>152.164</u>	<u>Dimensional standards</u>

accordance with Oregon Revised Statutes; and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.203(2)(a).

§ 152.160 PURPOSE.

The RR-10 Rural Residential Zone is designed to provide lands to enhance the value of rural living and maintain a rural residential atmosphere while accommodating the demand for rural residences. Lots need to be sufficiently large to accommodate private wells and sewage disposal systems as well as gardens and farm animals. Standards for rural land use and development consistent with desired rural character and the capability of the land and natural resources are provided. The zone is applied to areas committed to non-resource use or needed for rural residential land use as provided for in the Comprehensive Plan.

(Ord. 2004-13, passed 8-17-04)

§ 152.161 USES PERMITTED.

(A) *Uses permitted outright.* In a RR-10 Zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to §152.027:

(1) Farm use, as defined in ORS 215.203 and set out in §152.003, except livestock feed yards and sale yards; hog or poultry farms and the raising of fur bearing animals or hogs; **the growing, harvesting and processing of marijuana in**

MUF, MULTIPLE USE FOREST ZONE

Sub-Sections

<u>152.170</u>	<u>Purpose</u>
<u>152.171</u>	<u>Uses permitted</u>
<u>152.172</u>	<u>Conditional uses permitted</u>
<u>152.173</u>	<u>Dimensional standards</u>

§ 152.170 PURPOSE.

The MUF, Multiple Use Forest, Zone is intended to provide medium size acreages within recreation-residential designated areas while also serving as a buffer between Low Density GF zoned lands and higher density Mountain Residential (MR) or Forest Residential (FR) land.

(Ord. 83-4, passed 5-9-83; Ord. 2012-02 passed 1-26-12)

§ 152.171 USES PERMITTED.

(A) *Uses permitted outright.* In a MUF Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in ORS 215.203 and set out in §152.003, except livestock feed yards, mink farms, poultry farms, the raising of hogs, **and the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes;**

FR, FOREST RESIDENTIAL ZONE

Sub-Sections

<u>152.215</u>	<u>Purpose</u>
<u>152.216</u>	<u>Uses permitted</u>
<u>152.217</u>	<u>Conditional uses permitted</u>
<u>152.218</u>	<u>Dimensional standards</u>

§ 152.215 PURPOSE.

The FR, Forest Residential, Zone is intended to provide medium size acreages within recreation-residential designated areas while also serving as a buffer between Low Density GF zoned lands and higher density Mountain Residential (MR) land. (Ord. 83-4, passed 5-9-83)

§ 152.216 USES PERMITTED.

(A) *Uses permitted outright.* In an FR Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in ORS 215.203 and set out in §152.003, except livestock feed yards, mink farms, poultry farms, the raising of hogs, **and ; the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes;**

MR, MOUNTAIN RESIDENTIAL ZONE

Sub-Sections

<u>152.230</u>	<u>Purpose</u>
<u>152.231</u>	<u>Uses permitted</u>
<u>152.232</u>	<u>Conditional uses permitted</u>
<u>152.233</u>	<u>Dimensional standards</u>

§ 152.230 PURPOSE.

The MR, Mountain Residential, Zone is designed to provide areas for outdoor recreational and related residential development, and is appropriate in areas having a high recreational value, such as beside lakes, rivers and streams, and close to major recreational facilities such as winter sport areas.

(Ord. 83-4, passed 5-9-83)

§ 152.231 USES PERMITTED.

(A) *Uses permitted outright.* In a MR Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use as defined in ORS 215.203 and set out in § 152.003, excluding livestock feed yards, mink farms, poultry farms, the raising of hogs; **the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes**; and private or public schools;

DI, DEPOT INDUSTRIAL ZONE

Sub-Sections:

<u>152.235</u>	<u>Purpose</u>
<u>152.236</u>	<u>Applicability and subarea descriptions</u>
<u>152.237</u>	<u>Uses permitted</u>
<u>152.238</u>	<u>Conditional uses permitted; general criteria</u>
<u>152.239</u>	<u>Limitations on use</u>
<u>152.240</u>	<u>Master plan and design review</u>
<u>152.241</u>	<u>Dimensional standards</u>

§ 152.235 PURPOSE.

The DI, Depot Industrial, Zone is intended to recognize the regional and statewide significance of the former Umatilla Army Depot (Depot) and to apply appropriate zoning to accommodate planned uses as lands are transferred out of federal ownership.

Leaders of the region (Morrow County, Umatilla County, Morrow and Umatilla Port Districts and Confederated Tribes of the Umatilla Indian Reservation) have been planning for future use of the Depot since the early 1990's. Three overarching goals have guided the planning process for the Depot and are reflected on the consolidated Redevelopment Plan approved by the Umatilla Army Depot Reuse Authority for Morrow and Umatilla Counties.

(A) Military Reuse – accommodating the needs and plans of the Oregon National Guard;

(B) Wildlife Habitat – with a special emphasis on the shrub-steppe habitat; and

(C) Economic Development – job creation and tax base.

The DI Zone will be applied to the portions of the Depot under Umatilla County jurisdiction that are identified for industrial development in the Redevelopment Plan and acknowledged for exceptions to Statewide Planning Goals 11 (Public Facilities & Services) and 14 (Urbanization).

§ 152.239 LIMITATIONS ON USE.

(A) *Retail Sales & Service Uses in the DI Zone.* Retail sales and service uses permitted in the DI Zone are subject to the following limitations:

(1) A maximum of 5 percent of the developable acreage within the Depot Industrial Zone (excluding the restricted area of Subarea 3) may be allocated to retail and service uses.

(2) Retail and service uses may only be located in Subarea 1.

(B) *Use Limitations in Portion of Subarea 3.* Retail sales and service uses permitted in the DI Zone are subject to the following limitations:

(1) A portion of Subarea 3 (Coyote Coulee) will not be available for industrial development because on on-going environmental monitoring requirements and habitat values.

(2) The limited use area is shown with cross-hatch on Figure 1.

(C) *General Limitations on all uses.*

(1) A use is prohibited and shall be in violation of this chapter if it violates an

environmental quality statutes or regulation of the state or federal government.

(2) Materials shall be stored and grounds shall be maintained in such a manner which will not attract or aid in the propagation of insects or rodents or otherwise create a health hazard.

(3) Points of access from a public street or county road to properties in the Depot Industrial Zone shall be located so as to minimize traffic congestion and shall comply with the county Transportation System Plan and obtain necessary Road Access Permits.

(D) The growing, harvesting or processing of marijuana is prohibited in this zone.

RSC, RETAIL/SERVICE COMMERCIAL ZONE

Sub-Sections

<u>152.245</u>	<u>Purpose</u>
<u>152.246</u>	<u>Uses permitted</u>
<u>152.247</u>	<u>Conditional uses permitted</u>
<u>152.248</u>	<u>Limitations on uses</u>
<u>152.249</u>	<u>Design review</u>
<u>152.250</u>	<u>Dimensional standards</u>

§ 152.245 PURPOSE.

The RSC, Retail/Service Commercial, Zone is designed to provide areas outside of urban growth boundaries where specific commercial activities require larger sites than are available inside an urban growth boundary and provide for retail and service-oriented commercial activities to accommodate rural residences.

(Ord. 83-4, passed 5-9-83)

§ 152.248 LIMITATIONS ON USES.

In the RSC Zone, the following limitations and conditions shall apply:

(A) Outside storage areas shall be screened with a site-obscuring fence so that the area shall not be exposed to view from without the property;

(B) Outside display of any scrap or salvage material shall be prohibited.

(Ord. 83-4, passed 5-9-83)

(C) **The growing, harvesting or processing of marijuana is prohibited in this zone.**

**RRSC, RURAL
RETAIL/SERVICE
COMMERCIAL ZONE**

Sub-Sections

<u>152.251</u>	<u>Purpose</u>
<u>152.252</u>	<u>Uses permitted</u>
<u>152.253</u>	<u>Conditional uses permitted</u>
<u>152.254</u>	<u>Limitations on uses</u>
<u>152.255</u>	<u>Design review</u>
<u>152.256</u>	<u>Dimensional standards</u>

§ 152.251 PURPOSE.

The RRSC, Rural Retail/Service Commercial, Zone is designed to comply with Goal 14 and provide areas outside of urban growth boundaries and unincorporated communities where specific commercial activities require larger sites than are available inside an urban growth boundary and provide for retail and service-oriented commercial activities to accommodate rural residences. This zone is applied to commercial lands outside unincorporated communities and urban growth boundaries for which an exception to Goal 14 has not been approved.

The intent of the Rural Retail/Service Zone is to permit the continuation and expansion of existing uses and to provide rural employment opportunities for new uses that are generally rural-scale and low impact. (Ord. [2005-09](#), passed 10-13-05)

§ 152.254 LIMITATIONS ON USES.

In the RRSC Zone, the following limitations and conditions shall apply:

(A) Outside storage areas shall be screened with a site-obscuring fence so that

the area shall not be exposed to view from without the property;

(B) Outside display of any scrap or salvage material shall be prohibited.

(C) Except as provided in Paragraphs D through F of this Section, buildings shall not exceed 3,500 square feet of floor space.

(D) Greenhouses, nurseries, mobile home parks, travel trailer parks, and animal hospitals or veterinary clinics primarily devoted to the treatment of large animals may have buildings in excess of 3,500 square feet of floor space.

(E) New hotels and motels are allowed up to a maximum of 35 units, with no limitation on square footage.

(F) Structures that existed on July 1, 2005 may expand to a building size of 4,500 square feet or to a size that is 50% larger than the building size that existed on July 1, 2005, whichever is larger.

(G) Notwithstanding the size limitations for structures contained in this chapter, a lawfully approved or lawfully constructed structure existing as of July 1, 2005 shall not be considered a non-conforming use, and in the event the structure is destroyed or substantially damaged, the structure may be restored to its prior lawfully approved size. (Ord. [2005-09](#), passed 10-13-05)

(H) The growing, harvesting or processing of marijuana is prohibited in this zone.

CRC, COMMERCIAL RURAL CENTER ZONE

Sub-Sections

<u>152.260</u>	<u>Purpose</u>
<u>152.261</u>	<u>Uses permitted</u>
<u>152.262</u>	<u>Conditional uses permitted</u>
<u>152.263</u>	<u>Limitations on uses</u>
<u>152.264</u>	<u>Dimensional standards</u>

§ 152.260 PURPOSE.

The CRC Commercial Rural Center is designed to provide primary local rural commercial service for rural residences. The purpose of this use zone is to provide standards and review procedures for local rural commercial services that meet the needs of the rural residence and limit any conflicts between these uses and the prevailing rural residential uses. (Ord. 83-4, passed 5-9-83; Ord. 2005-09, passed 10-13-05)

§ 152.261 USES PERMITTED.

(A) *Uses permitted outright.* In a CRC Zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to § 152.027:

(1) Farm use, as defined in ORS 215.203 and set out in §152.003, except livestock feed yards and sale yards; hog or poultry farms; the raising of fur-bearing animals; **the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes**; and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.203(2)(a).

TC, TOURIST COMMERCIAL ZONE

Sub-Sections

<u>152.275</u>	<u>Purpose</u>
<u>152.276</u>	<u>Uses permitted</u>
<u>152.277</u>	<u>Conditional uses permitted</u>
<u>152.278</u>	<u>Limitations on uses</u>
<u>152.279</u>	<u>Design review</u>
<u>152.280</u>	<u>Dimensional standards</u>

§ 152.275 PURPOSE.

The TC Tourist Commercial Zone is designed to serve the traveling public along major traffic corridors or at appropriate recreational locations. Facilities may include service station, eating establishments or over-night accommodation. The TC Zone is appropriate along major interstate interchange as discussed in the Comprehensive Plan.

(Ord. 83-4, passed 5-9-83)

§ 152.278 LIMITATIONS ON USES.

In the TC Zone, the following limitations on uses shall apply:

(A) Outside storage areas shall be screened with a site-obscuring fence so that the area shall not be exposed to view from the traveling public and surrounding properties;

(B) Storage of scrap or salvage materials shall be prohibited.

(Ord. 83-4, passed 5-9-83)

(C) The growing, harvesting or processing of marijuana is prohibited in this zone.

RTC, RURAL TOURIST COMMERCIAL ZONE

Sub-Sections

<u>152.281</u>	<u>Purpose</u>
<u>152.282</u>	<u>Uses permitted</u>
<u>152.283</u>	<u>Conditional uses permitted</u>
<u>152.284</u>	<u>Limitations on uses</u>
<u>152.285</u>	<u>Design review</u>
<u>152.286</u>	<u>Dimensional standards</u>

§ 152.281 PURPOSE.

The RTC Rural Tourist Commercial Zone is designed to serve the traveling public along major traffic corridors or at appropriate recreational locations outside unincorporated communities and urban growth boundaries. Facilities may include service stations, eating establishments or over-night accommodations. The RTC Zone is appropriate along major interstate interchanges as discussed in the Comprehensive Plan. This zone is applied to commercial lands outside unincorporated communities and urban growth boundaries for which an exception to Goal 14 has not been approved.

The intent of the Rural Tourist Commercial Zone is to permit the continuation and expansion of existing uses and to provide rural scale tourism-related employment uses.
(Ord. 2005-09, passed 10-13-05)

§ 152.284 LIMITATIONS ON USES.

In the RTC Zone, the following limitations on uses shall apply:

(A) Outside storage areas shall be screened with a site-obscuring fence so that the area shall not be exposed to view from

the traveling public and surrounding properties;

(B) Storage of scrap or salvage materials shall be prohibited.

(C) Except as provided in Paragraphs D and E of this Section, buildings shall not exceed 3,500 square feet of floor space.

(D) Motels and hotels that existed on July 1, 2005 may expand up to 35 units or up to 50% of the number of existing units, whichever is larger, with no limitation on square footage.

(E) Structures that existed on July 1, 2005 may expand to a building size of 4,500 square feet or to a size that is 50% larger than the building size that existed on July 1, 2005, whichever is larger.

(F) Notwithstanding the size limitations for structures contained in this chapter, a lawfully approved or lawfully constructed structure existing as of July 1, 2005 shall not be considered a non-conforming use, and in the event the structure is destroyed or substantially damaged, the structure may be restored to its prior lawfully approved size.
(Ord. 2005-09, passed 10-13-05)

(G) The growing, harvesting or processing of marijuana is prohibited in this zone.

AB, AGRI-BUSINESS ZONE

Sub-Sections

<u>152.290</u>	<u>Purpose</u>
<u>152.291</u>	<u>Uses permitted</u>
<u>152.292</u>	<u>Conditional uses permitted</u>
<u>152.293</u>	<u>Limitations on use</u>
<u>152.294</u>	<u>Dimensional standards</u>

§ 152.290 PURPOSE.

The AB Agribusiness Zone is designed to provide areas of certain types of agriculturally oriented businesses and services which may not otherwise need to be located in more intensive commercial or industrial areas. It may be appropriate for storage, handling or processing of agricultural products, or provide area for agriculturally oriented businesses which require larger areas.

(Ord. 83-4, passed 5-9-83)

§ 152.291 USES PERMITTED.

(A) *Uses permitted outright.* In an AB Zone, the following uses and their accessory uses are permitted without a zoning permit pursuant:

(1) Farm use as defined in ORS 215.203 and set out in §152.003, except livestock feed yards and sale yards; hog or poultry farms and the raising of fur-bearing animals; **the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes**; and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.203(2)(a).

LI, LIGHT INDUSTRIAL ZONE

Sub-Sections

<u>152.301</u>	<u>Purpose</u>
<u>152.302</u>	<u>Uses permitted</u>
<u>152.303</u>	<u>Conditional uses permitted</u> <u>general criteria</u>
<u>152.304</u>	<u>Limitations on use</u>
<u>152.305</u>	<u>Design review</u>
<u>152.306</u>	<u>Dimensional standards</u>

§ 152.301 PURPOSE.

The LI Light Industrial Zone is designed to provide areas for industrial use that are less intensive than heavy industrial uses, and are less offensive to adjacent land uses, and are compatible with certain commercial uses. It is designed to help the county expand and diversify its economic base. The LI Zone is appropriate for areas near major transportation facilities which are generally suited for industry and include highways, railroads, and waterways. (Ord. 83-4, passed 5-9-83)

§ 152.304 LIMITATIONS ON USE.

(A) All business, commercial and industrial activities, and storage allowed in an LI, Light Industrial, Zone shall be conducted wholly within a building or shall be screened from view from adjacent public roads or surrounding properties in farm, residential or commercial zones, unless the entire activity is conducted more than 500 feet from said surrounding property or road. Outdoor storage of farm and forest products or equipment shall not be subject to this limitation;

(B) All off-street loading areas shall be

screened from view if adjoining properties are in a residential zone;

(C) All noise, vibration, dust, odor, smoke, appearance or other objectionable factors involved in any activity shall comply with appropriate state and federal regulations.

(Ord. 83-4, passed 5-9-83; Ord. 2005-09, passed 10-13-05)

(D) The growing, harvesting or processing of marijuana is prohibited in this zone.

RLI, RURAL LIGHT INDUSTRIAL ZONE

Sub-sections

<u>152.307</u>	<u>Purpose</u>
<u>152.308</u>	<u>Uses permitted</u>
<u>152.309</u>	<u>Conditional uses permitted;</u> <u>general criteria</u>
<u>152.310</u>	<u>Limitations on use</u>
<u>152.311</u>	<u>Design review</u>
<u>152.312</u>	<u>Dimensional standards</u>

§152.307 PURPOSE.

The RLI Rural Light Industrial Zone is designed to provide areas for industrial uses that are appropriate for rural locations, less intensive than heavy industrial uses, are less offensive to adjacent land uses, and are compatible with certain commercial uses. It is designed to help the county expand and diversify its economic base. The RLI Zone is appropriate for areas near major transportation facilities which are generally suited for industry and include highways, railroads and waterways. This zone is applied to lands zoned industrial prior to January 1, 2004, that are outside unincorporated communities and urban growth boundaries.

The intent of the Rural Light Industrial Zone is to permit the continuation and expansion of existing uses and to provide rural employment opportunities for new uses that are generally rural-scale and low impact or provide for the processing and manufacturing of resource products such as timber and forest related products, farm crops and produce, mineral and aggregate resources, or the maintenance and repair of mechanical equipment related to farm or forest uses.

(Ord. 2005-09, passed 10-13-05)

§152.310 LIMITATIONS ON USE.

(A) All business, commercial and industrial activities, and storage allowed in an RLI, Rural Light Industrial, Zone shall be conducted wholly within a building or shall be screened from view from adjacent public roads or surrounding properties in residential or commercial zones, unless the entire activity is conducted more than 500 feet from said surrounding property or road. Outdoor storage of farm and forest products or equipment shall not be subject to this limitation;

(B) All off-street loading areas shall be screened from view if adjoining properties are in a residential zone;

(C) All noise, vibration, dust, odor, smoke, appearance or other objectionable factors involved in any activity shall comply with appropriate state and federal regulations.

(D) A lawfully approved or lawfully constructed structure existing as November 12, 2005 shall not be considered a non-conforming use, and in the event the structure is destroyed or substantially damaged, the structure may be restored to its prior lawfully approved size.
(Ord. 2005-09, passed 10-13-05)

(E) The growing, harvesting or processing of marijuana is prohibited in this zone.

LRLI, LIMITED RURAL LIGHT INDUSTRIAL ZONE

Sub-Sections

<u>152.313</u>	<u>Purpose</u>
<u>152.314</u>	<u>Uses permitted</u>
<u>152.315</u>	<u>Conditional uses permitted; general criteria</u>
<u>152.316</u>	<u>Limitations on use</u>
<u>152.317</u>	<u>Design review</u>
<u>152.318</u>	<u>Dimensional standards</u>

§152.313 PURPOSE.

The LRLI, Limited Rural Light Industrial Zone, is designed to provide areas for industrial uses that are appropriate for rural locations, less intensive than heavy industrial uses, are less offensive to adjacent land uses, and are compatible with certain commercial uses. It is designed to help the county expand and diversify its economic base. The LRLI Zone is appropriate for areas near major transportation facilities which are generally suited for industry and include highways, railroads and waterways. This zone is applied to lands zoned industrial outside unincorporated communities and urban growth boundaries after January 1, 2004.

The intent of the Limited Rural Light Industrial Zone is to permit the continuation and expansion of existing uses and to provide rural employment opportunities for new uses that are generally rural scale and low impact or provide for the processing and manufacturing of resource products such as timber and forest related products, farm crops and produce, mineral and aggregate resources, or the maintenance and repair of mechanical equipment related to farm or forest uses.

(Ord. 2005-09, passed 10-13-05)

§152.316 LIMITATIONS ON USE.

(A) All business, commercial and industrial activities, and storage allowed in an LRLI, Limited Rural Light Industrial Zone shall be conducted wholly within a building or shall be screened from view from adjacent public roads or surrounding properties in farm, residential or commercial zones, unless the entire activity is conducted more than 500 feet from said surrounding property or road. Outdoor storage of farm and forest products or equipment shall not be subject to this limitation;

(B) All off street loading areas shall be screened from view if adjoining properties are in a residential zone;

(C) All noise, vibration, dust, odor, smoke, appearance or other objectionable factors involved in any activity shall comply with appropriate state and federal regulations.

(D) Expansion of structures that existed on November 12, 2005, shall be permitted under the following circumstances:

(1) If the use is not subject to a size limitation there shall be no limitations on expansion.

(2) If the use is subject to a size limitation, the use may expand to a building size of 40,000 square feet or to a size that is 50% larger than the building size that existed on November 12, 2005, whichever is larger

(E) Notwithstanding the size limitations for structures contained in this section, a lawfully approved or lawfully constructed structure existing as November 12, 2005, shall not be considered a non-conforming use, and in the event the structure is

destroyed or substantially damaged, the structure may be restored to its prior lawfully approved size.

(Ord. [2005-09](#), passed 10-13-05)

(F) The growing, harvesting or processing of marijuana is prohibited in this zone.

HI, HEAVY INDUSTRIAL ZONE

Sub-Sections

<u>152.320</u>	<u>Purpose</u>
<u>152.321</u>	<u>Uses permitted</u>
<u>152.322</u>	<u>Conditional uses permitted; general criteria</u>
<u>152.323</u>	<u>Limitations on use</u>
<u>152.324</u>	<u>Design review</u>
<u>152.325</u>	<u>Dimensional standards</u>

§ 152.320 PURPOSE.

The HI Heavy Industrial Zone is designed to provide for industrial uses where potential conflicts with adjacent land uses will have a minimal negative impact. It is designed to help the county expand and diversify its economic base. The HI Zone is appropriate for areas adjacent to major transportation facilities such as railways, major highways and waterways.
(Ord. 83-4, passed 5-9-83)

§ 152.323 LIMITATIONS ON USE.

(A) A use is prohibited which has been declared a nuisance by statute, by action of Commissioners or by a court of competent jurisdiction;

(B) A use is prohibited and shall be in violation of this chapter if it violates an environmental quality statute or regulation of the state or federal government;

(C) Materials shall be stored and grounds shall be maintained in such a manner which will not attract or aid in the propagation of insects or rodents or otherwise create a health hazard;

(D) Points of access from a public street

or county road to properties in a HI Heavy Industrial Zone shall be located so as to minimize traffic congestion and direct traffic away from residential streets.
(Ord. 83-4, passed 5-9-83)

(E) The growing, harvesting or processing of marijuana is prohibited in this zone.

RHI, RURAL HEAVY INDUSTRIAL ZONE

Sub-Sections

<u>152.326</u>	<u>Purpose</u>
<u>152.327</u>	<u>Uses permitted</u>
<u>152.328</u>	<u>Conditional uses permitted;</u> <u>general criteria</u>
<u>152.329</u>	<u>Limitations on use</u>
<u>152.330</u>	<u>Design review</u>
<u>152.331</u>	<u>Dimensional standards</u>

§152.326 PURPOSE.

The RHI Rural Heavy Industrial Zone is designed to provide for industrial uses that are appropriate for rural locations and where potential conflicts with adjacent land uses will have a minimal negative impact. It is designed to help the county expand and diversify its economic base. The RHI Zone is appropriate for areas adjacent to major transportation facilities such as railways, major highways and waterways.

This zone is applied to industrial lands outside unincorporated communities and urban growth boundaries where an exception to Goal 14 has not been approved. This rural zone will apply to lands that were zoned industrial prior to January 1, 2004.

The intent of the Rural Heavy Industrial Zone is to permit the continuation and expansion of existing uses and to provide rural employment opportunities for new uses that are generally rural-scale and low impact or provide for the processing and manufacturing of resource products such as timber and forest related products, farm crops and produce, minerals and aggregate resources, or the maintenance and repair of mechanical equipment related to farm or forest uses.

(Ord. 2005-13, passed 5-31-2005; Ord. 2006-04, passed 3-1-2006)

§152.329 LIMITATIONS ON USE.

(A) A use is prohibited which has been declared a nuisance by statute, by action of Commissioners or by a court of competent jurisdiction;

(B) A use is prohibited and shall be in violation of this chapter if it violates an environmental quality statute or regulation of the state or federal government;

(C) Materials shall be stored and grounds shall be maintained in such a manner which will not attract or aid in the propagation of insects or rodents or otherwise create a health hazard;

(D) Points of access from a public street or county road to properties in an RHI Rural Heavy Industrial Zone shall be located so as to minimize traffic congestion and direct traffic away from residential streets.
(Ord. 2005-13, passed 5-31-2005; Ord. 2006-04, passed 3-1-2006)

(E) The growing, harvesting or processing of marijuana is prohibited in this zone.

LRHI, LIMITED RURAL HEAVY INDUSTRIAL ZONE

Sub-Sections

<u>152.332</u>	<u>Purpose</u>
<u>152.333</u>	<u>Uses permitted</u>
<u>152.334</u>	<u>Conditional uses permitted:</u> <u>general criteria</u>
<u>152.334A</u>	<u>Limitations on use</u>
<u>152.334B</u>	<u>Design review</u>
<u>152.334C</u>	<u>Dimensional standards</u>

§ 152.332 PURPOSE.

The LRHI Limited Rural Heavy Industrial Zone is designed to provide for industrial uses that are appropriate for rural locations and where potential conflicts with adjacent land uses will have a minimal negative impact. It is designed to help the county expand and diversify its economic base. The LRHI Zone is appropriate for areas adjacent to major transportation facilities such as railways, major highways and waterways. This zone is applied to lands outside unincorporated communities and urban growth boundaries zoned after January 1, 2004 for industrial use.

The intent of the Limited Rural Heavy Industrial Zone is to permit the continuation and expansion of existing uses and to provide rural employment opportunities for new uses that are generally rural-scale and low impact or provide for the processing and manufacturing of resource products such as timber and forest related products, farm crops and produce, minerals and aggregate resources, or the maintenance and repair of mechanical equipment related to farm or forest uses.

(Ord. 2006-04, passed 3-1-2006)

§ 152.334A LIMITATIONS ON USE.

(A) A use is prohibited which has been declared a nuisance by statute, by action of Commissioners or by a court of competent jurisdiction;

(B) A use is prohibited and shall be in violation of this chapter if it violates an environmental quality statute or regulation of the state or federal government;

(C) Materials shall be stored and grounds shall be maintained in such a manner which will not attract or aid in the propagation of insects or rodents or otherwise create a health hazard;

(D) Points of access from a public street or county road to properties in an LRHI Limited Rural Heavy Industrial Zone shall be located so as to minimize traffic congestion and direct traffic away from residential streets.

(E) Expansion of structures that existed on the date of this ordinance shall be permitted under the following circumstances:

(1) If the use is not subject to a size limitation there shall be no limitations on expansion.

(2) If the use is subject to a size limitation, the use may expand to a building size of 40,000 square feet or to a size that is 50% larger than the building size that existed on the date of adoption of this ordinance, whichever is larger

(F) Size limits on uses permitted in the LRHI Zone shall not apply to any properties for which an exception to Statewide Planning Goal 14, Urbanization, has been approved.

(G) Notwithstanding the size limitations for structures contained in this ordinance, a lawfully approved or lawfully constructed structure existing as of the effective date of this ordinance shall not be considered a non-conforming use, and in the event the structure is destroyed or substantially damaged, the structure may be restored to its prior lawfully approved size.

(Ord. 2006-04, passed 3-1-2006)

(H) The growing, harvesting or processing of marijuana is prohibited in this zone.

FU-10, FUTURE URBAN ZONE

farm uses referred to in ORS 215.203(2)(a).

Sub-Sections

<u>152.335</u>	<u>Purpose</u>
<u>152.336</u>	<u>Uses permitted</u>
<u>152.337</u>	<u>Conditional uses permitted</u>
<u>152.338</u>	<u>Limitations on use</u>
<u>152.339</u>	<u>Dimensional standards</u>

§ 152.335 PURPOSE.

The FU-10 Future Urban Zone is designed to implement the growth management policies around the Hermiston Urban Growth Boundary; to provide for interim uses consistent with the plan policies until conversion to urban uses; to retain the land suitable for future urban development in large parcels which will enable more cost effective urban redevelopment of the land. Lots are kept large as urban services are not yet available to these areas and development is limited to the land capability of accepting septic tanks and drainfields while still providing safe drinking water.

(Ord. 83-4, passed 5-9-83)

§ 152.336 USES PERMITTED.

(A) *Uses permitted outright.* In a FU-10 Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in ORS 215.203 and set out in § 152.003, except livestock feed yards and sales yards; hog or poultry farms; the raising of fur-bearing animals; **the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes**; and except the dwellings and other buildings customarily provided in conjunction with

UMATILLA COUNTY MEDICAL MARIJUANA COMMITTEE

July 14, 2015 Meeting #8 10:00 – noon Room 114 County Courthouse

PROPOSED AGENDA

1. Introduction of Committee Members and invited guests
2. Ground Rules – Listen carefully. Do not interrupt. Audience participation is allowed when recognized by the chair. See agenda below for public comments.
3. Discuss HB 3400A
4. Discuss draft recommendations
5. Vote on Recommendation to Board of Commissioners
6. Next Steps?
7. Public Comments (time permitting). Please sign in if you wish to speak. Please wait for the chair to recognize you before you speak.
8. ADJOURN Noon

Table of Contents – July Packet to Marijuana Committee

1. Agenda
2. Summary of HB 3400 A
3. Brief Summary of 2015 Marijuana Legislation by AOC
4. Results of Measure 91 (2014 election)
5. Results of Measure 67 (1998 election)
6. Memo to Committee from Chair
7. Summary of Proposed Amendments to County Development Ordinance
8. UCDO Code Changes

tamra/marijuana/Agenda July 14, 2015

Seventy-Eighth Oregon Legislative Assembly - 2015 Regular Session
STAFF MEASURE SUMMARY

MEASURE: HB 3400 A
CARRIER: Sen. Ferrioli
Sen. Burdick

Joint Committee On Implementing Measure 91

Fiscal: Fiscal impact issued
Revenue: No revenue impact, statement issued (Indeterminate Impact)

Action Date: 06/15/15

Action: Do Pass The A-Eng Bill.

Meeting Dates: 03/30, 05/20, 05/27, 06/01, 06/03, 06/08, 06/15

Vote:

Senate

Yeas: 5 - Beyer, Burdick, Ferrioli, Kruse, Prozanski

House

Yeas: 5 - Buckley, Helm, Lininger, Olson, Wilson

Prepared By: Adam Crawford, Committee Administrator

WHAT THE MEASURE DOES: Requires Oregon Liquor Control Commission (OLCC) to adopt rules restricting size of mature marijuana canopy. Specifies canopy limits are not applicable to premises licensed to propagate immature plants. Allows OLCC to adopt rules creating tiered system for mature marijuana canopy. Allows OLCC to create license allowing medical marijuana growers to sell immature marijuana plants and usable marijuana to growers, wholesalers, processors and retailers if medical marijuana grower meets specific conditions. Specifies grower licensed by OLCC and registered with Oregon Health Authority (OHA) may not possess more plants than allowable by OHA regulations and must use OLCC seed-to-sale tracking system. Requires licensed marijuana producers (growers), marijuana wholesalers (wholesalers), marijuana processors (processors), and marijuana retailers (retailers) be 21 years of age and resident of Oregon for two years. Repeals provision on January 1, 2020. Allows OLCC to require segregated areas for premises that hold multiple licenses. Requires OLCC to develop seed-to-sale tracking system. Requires growers, wholesalers, processors and retailers licensed by OLCC to use seed-to-sale tracking system when transferring marijuana. Establishes authority for OLCC marijuana regulatory specialists, including authority to inspect, arrest, seize and issue citations. Prohibits inspectors from conducting investigations or inspections for purpose of ensuring compliance with Oregon Medical Marijuana Act (OMMA). Allows OLCC to impose civil penalty of not more than \$5,000 per violation. Requires OLCC to establish system for awarding permits to retail workers participating in sale, possession or securing of marijuana at retail establishment. Requires growers, wholesalers, processors and retailers to maintain surety bond and liability insurance. Defines terms.

Allows city and county governing body to adopt ordinances prohibiting operation or establishment of medical marijuana processors, dispensaries as well as recreational growers, processors, wholesalers or retailers so long as that city or county had at least 55 percent of its electors vote against Measure 91. Requires city or county governing body to adopt ordinance within 180 days of effective date. Provides exemptions from ordinance for medical marijuana processors or retailers if certain conditions are met. Removes exemption if registration of medical marijuana dispensary or processing site is revoked. Requires governing body to submit ordinance to electors for approval. Requires city or county to notify OHA if ordinance is passed.

Establishes Legislative Assembly as sole body with authority to tax and regulate marijuana unless otherwise expressly permitted by state law. Allows cities and counties to establish up to three percent tax on marijuana sold by retailers if approved by electors at statewide election. Establishes Marijuana Control and Regulation Fund.

Allows governing body of city or county to adopt regulations on growers, processors, wholesalers and retailers. Requires regulations be consistent with city and county comprehensive plan, zoning ordinances and public health and safety laws. Confirms marijuana is crop for purposes of exclusive farm use law. Prohibits new dwellings and farm stands in conjunction with marijuana crop on land zoned for exclusive farm use.

Requires OHA and OLCC to require all marijuana items sold by either medical marijuana dispensaries or retailers be tested prior to sale or transfer. Requires OHA, in consultation with OLCC and Oregon Department of Agriculture (ODA), to establish standards for testing marijuana items. Requires OLCC to establish rules for licensing testing lab.

Requires OHA to establish rules for accrediting testing lab. Provides exemptions from testing requirement. Allows OHA to impose civil penalty for violations not exceeding \$500 per day.

Requires OHA and OLCC to require all marijuana items transferred or sold be packaged and labeled in manner that ensures public health and safety. Requires OHA, in consultation with OLCC and ODA, to establish standards for packaging and labeling marijuana items. Prohibits ODA from establishing standards for marijuana as food additive, or considering marijuana an adulterant. Allows OHA to enter into agreement with OLCC to inspect and ensure compliance with labeling and packaging requirements. Provides exemptions from packaging and labeling requirements. Allows OHA to impose civil penalty for violations not exceeding \$500 per day.

Establishes Task Force on Cannabis Environmental Best Practices (Task Force). Establishes Task Force roster and rules. Requires Task Force to study use of electrical and water usage associated with growing marijuana. Requires Task Force to report to committee of Legislative Assembly responsible for regulating cannabis no later than September 15, 2016.

Allows OLCC, in conjunction with OHA and ODA, to establish program identifying and certifying private and public researchers of cannabis.

Requires OHA, State Board of Education and Alcohol and Drug Policy Commission to develop curricula on marijuana abuse prevention. Requires OHA to report to Legislative Assembly on or before February 1, 2016 and on or before February 1 of every odd numbered year thereafter.

Provides exemption to specified licensees from criminal laws of Oregon relating to possession, delivery or manufacture of marijuana. Modifies conditions and class of felony or misdemeanor for specified marijuana laws regarding possession, delivery and production of marijuana.

Requires OLCC to report to Legislative Assembly on or before February 1 of every odd numbered year approximate amount of marijuana produced and sold and whether supply of marijuana in Oregon is commensurate with demand. Requires OLCC to examine available research on influence of marijuana on ability of person to operate vehicle and report to interim committees of Legislative Assembly related to judiciary on or before January 1, 2017.

Requires medical marijuana registry identification cardholders (cardholders), medical marijuana growers (growers), medical marijuana processors (processors) and medical marijuana dispensaries (dispensaries) be registered with OHA. Provides exemptions for licensing. Describes OHA licensing process for cardholders, growers, processors and dispensaries. Requires Oregon residency to receive registry identification card. Requires at least two years of Oregon residency for growers, processors and those persons responsible for dispensaries. Requires OHA to confirm growers, processors, person responsible for marijuana dispensaries are 21 years of age and residents of Oregon for at least two years until January 1, 2020. Limits grower to 24 mature plants if grow site is within city limits and in location zoned for residential use or 96 mature plants if grow site is not in previously described area, so long as grow site was registered with OHA prior to January 1, 2015. Limits grower to 12 mature plants if grow site is within city limits and in location zoned for residential use or 48 mature plants if grow site is not in previously described area if grower registers grow site after December 31, 2014. Limits amount of usable marijuana grower may possess to 12 pounds per outdoor plant or 6 pounds per indoor plant. Requires grower to reduce plant count if specific events occur. Establishes tracking system for growers, processors and dispensaries. Allows OHA to inspect only marijuana grow sites of persons designated to produce marijuana for other cardholders. Allows cardholder to reimburse person responsible for grow site for all costs associated with production of marijuana. Requires OHA to establish by rule, public health and safety standards for processor of cannabinoid edibles, concentrates and extracts. Allows OHA to provide information regarding grow site, processing site or dispensary to law enforcement or regulatory agency of city or county. Prohibits OHA from providing specified information. Requires OHA to provide information to law enforcement agencies if OHA suspends registration, revokes registry or takes disciplinary action against grower, processor or dispensary. Specifies those convicted of Class A or B felony relating to manufacture or delivery of controlled substance may not be designated as person responsible for grow site for two years.

Allows local governments to enact reasonable regulations on grow sites, processing sites and dispensaries. Allows dispensary to remain at current location if school is established within 1,000 feet of dispensary. Allows marijuana processing facilities to be located in residential areas so long as processor does not process cannabinoid extracts.

Establishes January 1, 2016 or March 1, 2016 as operative date for specified parts of measure. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Oregon Medical Marijuana Act provisions
- Requirements for tracking of marijuana
- Recreational marijuana regulatory agencies
- Interaction between medical and recreational markets
- Supply of marijuana currently grown in Oregon

EFFECT OF COMMITTEE AMENDMENT:

Replaces measure.

BACKGROUND:

In 1998, Oregon voters approved Ballot Measure 67 to allow medical use of marijuana within specified limits. The Oregon Medical Marijuana Program (OMMP) under the Oregon Health Authority (OHA) administers the program regulating medical marijuana. The Oregon Medical Marijuana Act (OMMA) governs the OMMP and has been frequently modified since its passage. In 2014, Oregon voters approved Ballot Measure 91 (Measure 91) to allow the recreational sale and use of marijuana.

House Bill 3400 A would require the OHA to create a database that would track the production, processing and transfer of medical marijuana. The measure requires OLCC to create a seed-to-sale tracking system for recreational marijuana and set limits on the size of recreational grow site canopies for mature marijuana plants. House Bill 3400 A also vests sole authority to tax or impose fees on either medical or recreational marijuana with the Legislative Assembly. The measure would also limit the number of plants allowable under the OMMA at individual grow sites within city limits zoned for residential use and at all other sites. House Bill 3400 A also allows local governing boards to adopt ordinances prohibiting marijuana operations within their jurisdiction. However, if a local jurisdiction prohibits any marijuana operation, they cannot receive any funds from marijuana taxation. The measure creates standards for testing laboratories. The measure also requires OHA and OLCC to create rules regarding the packaging and labeling of marijuana items in the medical and recreational markets.

Brief Summary of 2015 Oregon Marijuana Legislation

As of June 30, 2015

1. House Bill 3400A (Omnibus Bill)

A. Local Option (Sections 133 to 136)

- Provides two paths for local opt out of any one or more category of marijuana businesses. There are four retail categories (producer, processor, wholesaler, retailer) and two medical categories (processor and dispensary):
 - 1. Opt out by action of the county or city governing body for counties, and cities in counties, that voted against Measure 91 by at least 55 percent (Baker, Crook, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wheeler).
 - Opt out must be done within 180 days of the effective date of HB 3400A.
 - Grandfathering for existing medical processors and dispensaries that have successfully completed the local land use process.
 - If a county or city opts out of any category, local option tax (*see below*) is prohibited, as well as disqualification for shared state tax revenue (*see below*).
 - 2. Opt out by local vote referred by any county or city governing body.
 - Temporary moratorium until election.
 - Election must be held at the next general election (November of even-numbered year).
 - Grandfathering for existing medical processors and dispensaries that have successfully completed the local land use process.
 - If a county or city opts out of any category, local option tax (*see below*) is prohibited, as well as disqualification for shared state tax revenue (*see below*).

B. Local Time, Place and Manner Regulations (Sections 33 and 89)

- Clarifies reasonable time, place and manner regulatory authority over marijuana businesses.

C. Land Use (Section 34)

- Marijuana given status as a farm crop.
- In EFU zones, prohibits farm stands, farm commercial activities, and new farm dwellings based on marijuana crops.
- Allows counties to permit marijuana crops in farm and forest zones, similar to EFU.
- Requires a completed Land Use Compatibility Statement (LUCS) from local government prior to issuance of marijuana business license by OLCC.

D. Local Option Tax (Section 34a)

- Allows local tax on sale of retail marijuana items, if approved by local voters at a general election, not to exceed 3 percent.
- Prohibits local option tax if city or county prohibits any category of marijuana business.

E. OLCC

- Expands powers and duties relating to regulation, investigation, and enforcement with regard to OLCC licensed marijuana businesses.
- Requires handler permit for employees of retail marijuana businesses that handle marijuana.
- Requires a seed-to-sale tracking system.
- Allows OLCC to require age verification scanners for licensed retail stores.
- Provides for state licensed testing laboratories to test all retail marijuana products.
- Provides for packaging, labeling, and dosage standards.
- Provides for state certified public and private research facilities.
- Allows medical marijuana growers to opt-in to the retail marijuana supply chain to sell excess medical marijuana, subject to licensing and regulation by OLCC.

F. OMMA

Tracking

- Requires registration and tracking of all grow sites, processing sites, and dispensaries in an OHA database.
- Requires designated growers, processors, and dispensaries to submit monthly information to the database regarding amounts possessed and transferred.
- Permits law enforcement, and city and county regulatory agencies, to access database, except for transaction information, which requires a subpoena.

Growers and Processors

- Requires registration of designated grow sites and processing sites.
- Prohibits persons convicted of certain drug crimes from being the designated person responsible for a site

- Authorizes OHA to inspect sites, and records related to those sites.
- Authorizes OHA to revoke the registration of a site for violation of the OMMA, or local time, place, and manner ordinances.
- Limits the number of plants that may be grown at a single address:
 - 12 mature plants in residential zone in city, with up to 24 for grandfathered sites.
 - 48 mature plants in all other zones, with up to 96 for grandfathered sites.
- Allows designated grower to possess usable marijuana at the rate of 12 pounds per mature outdoor plant, and 6 pounds per mature indoor plant.
- Allows cardholder to assign a portion of the cardholder's possession rights to their designated grower.
- Prohibits marijuana extract processing sites in residential zones.

Dispensaries

- Authorizes OHA to revoke the registration of a dispensary for violation of the OMMA, or local time, place, and manner ordinances.
- Prohibits dispensaries in residential zones.
- Allows dispensary to remain registered if a school opens within 1,000 feet of the dispensary after the dispensary is already operating.

Products and Testing

- Provides for testing of all marijuana items, and requires testing laboratories to be licensed by OHA.
- Provides OHA with regulatory authority over testing, and the production of edibles, extracts, concentrates, and other products.
- Imposes requirements for labeling and packaging.

G. Further Reduction in Marijuana Offense Levels (see separate pamphlet)

2. Senate Bill 460A ("Early Start")

- Allows medical marijuana dispensaries to sell limited marijuana retail products, beginning October 1, 2015
 - Seeds.
 - Dried leaves and flowers.
 - Plants that are not flowering.
- Limits amount that can be sold to each customer.
- Allows cities and counties to prohibit these retail sales by ordinance.

3. House Bill 2041A (Retail Taxation)

- State tax on sale of retail products, in lieu of Measure 91 tax on grower products:
 - 17% tax rate (but see "Early Start" special rate below).
- Retains net distribution formula from Measure 91
 - 40% to the Common School Fund.
 - 25% to substance abuse treatment and prevention.
 - 15% to the Oregon State Police.
 - 10% to cities, and 10% to counties, to assist with enforcing Measure 91.
- Disqualifies a city or county from receiving any distribution if the city or county prohibits any one or more of the six categories of marijuana business licensees.
- "Early Start" special tax rate:
 - 25% tax rate, beginning January 4, 2016.

4. Senate Bill 844A (Miscellaneous)

- Research task force
- Reduces expunction waiting period from three years to one year for person adjudicated or convicted of marijuana offenses when they were under 21.
- Changes OMMA "agitation incident to Alzheimer's disease" qualifying condition to "a degenerative or pervasive neurological condition."
- Allows certain medical organizations to be a designated OMMA caregiver.
- Prohibits transplant hospitals from discriminating against OMMA cardholders.

5. House Bill 2668B (Hemp)

- No growing within 1,000 feet of a school
- Hemp growers to allow research by DOA/OSU
- DOA Rules Advisory Committee (RAC)
- No more hemp licenses until March 1, 2017

City results for Measure 91- Legalize Recreational Marijuana

	<u>Yes</u>	<u>No</u>	<u>% of passed or failed</u>
Umatilla	285	417	59.4% F
Pilot Rock	148	249	66.1% F
Ukiah	31	58	65.2% F
Hermiston	1255	2056	62.1% F
Milton-Freewater	426	704	62.3% F
Pendleton	2141	2715	55.9% F
Stanfield	184	291	61.3% F
Echo	78	85	52.1% F
Helix	28	39	58.2% F
Adams	39	76	66.1% F
Ukiah	24	42	63.6% F
Athena	156	295	65.4% F
Weston	97	92	51.3% P
Overall Cities	4892	7119	59.3%F
Rural County	2289	5003	68.6%Failed
Total			
Umatilla County	7181	12122	62.8%F

Umatilla County voter turnout was 61.77%

Statewide turnout was 70.90%

November 3, 1998-State Measure 67 Allows medical use of marijuana

City statistics are not available for all cities for this measure. The precincts containing these cities are not totally dedicated to city boundaries. Results for individual measures in these precincts must be done by hand. (The ballots are long gone).

<u>City</u>	<u>Yes vote</u>	<u>No Vote</u>	<u>% of pass or fail</u>
City of Umatilla	235	249	51.4% Failed
City of Pilot Rock	163	224	57.9% F
City of Hermiston	998	1260	55.8% F
Milton-Freewater	539	554	50.7% F
City of Pendleton	1846	2218	54.6% F
<hr/>			
Overall Tallied Cities	3781	4505	54.4% F
Remaining Cities			
Plus Rural	2827	3406	54.6% F
Total County	6608	7911	54.5% F

This Election had a voter turnout of 46.6% for Umatilla County

Voter Participation Statewide was 59.02%

July 10, 2015

MEMO

TO: Medical Marijuana Study Committee

FROM: Tamra Mabbott, Chair

RE: HB 3400A

House Bill 3400A, passed by the Oregon Legislature, made numerous changes to medical marijuana laws and recreational marijuana laws. This is the legislation we have been long awaiting. We can now reconvene and move forward with our charter, to make recommendations to the Board of Commissioners on a moratorium and other matters relating to marijuana.

Among the more significant changes, the new law allows a "qualifying city or county" the option to adopt ordinances that prohibit the establishment of marijuana related activities. In November 2014, Umatilla County voters were 68.6% against Measure 91. In 1998, Umatilla County voters rejected Measure 67, the medical marijuana bill, with a 54.5% vote.

The county now has the legal authority to continue a moratorium on both recreational marijuana and medical marijuana. All committee recommendations will require a vote of the committee.

In an effort to move our collective efforts forward, and in hopes of reaching a consensus, draft recommendations are provided below as a starting point for our discussion on Tuesday.

I. DRAFT RECOMMENDATION - GENERAL

Based upon the marijuana committee meeting with representatives of the Oregon Health Authority (OHA) and based upon the experience of several county agencies with the OHA regulatory oversight of medical marijuana dispensaries, and given the evidence shared by committee members, Umatilla County residents are best served by continuing the moratorium on medical marijuana dispensaries. The OHA will be undergoing changes, including rulemaking and administrative changes, pursuant to HB 3400A. That will hopefully result in increased accountability and monitoring of the program. At some time in the future, when OHA program changes appear sufficient to address local concerns about exposure to youth, leakage to the black market, inadequate monitoring, inadequate testing, changes to federal laws, etc. the county marijuana committee may reconvene and consider revising the recommendation to support a moratorium.

Given the clear voter position against both medical and recreational marijuana, the committee recommends the county adopt a moratorium on recreational marijuana dispensaries and commercial grow operations.

II. DRAFT RECOMMENDATION – LAND USE

Please see attached land use code amendments.

III. OTHER

July 10, 2015

Summary of Proposed Amendments to Umatilla County Development Ordinance

I. Definitions UCDO Section 152.003

The following are proposed amendments/additions to the definition section of the UCDO Section 152.003.

152.003 Medical Marijuana Dispensary (MMJ) or Laboratory.

A Medical Marijuana Dispensary shall be the same as defined in OAR 333-008-1050 and licensed by the Oregon Health Authority and registered as a business with the Office of the Secretary of State.

152.003 Medical Marijuana (MMJ) Grow Facility or Operation property.

A Medical Marijuana (MMJ) Grow Site or Grow operation shall be the same as defined in OAR 333 Division 8 where a single parcel of land is used as a grow operation for more than two MMJ cardholders (or patients). A medical marijuana grow facility may also be defined as an operation (single parcel of land) where marijuana is grown for two or more medical marijuana cardholders or persons who consume marijuana for medical purposes. Growing of medical marijuana is a not for profit commerce.

152.003 Medical Marijuana Processing Facility.

A Medical Marijuana Processing Facility is a place where marijuana is processed for human consumption.

152.003 Pain Management Clinic.

A pain management clinic is a business or clinic where professional treatment is provided to persons who have chronic pain or addictions.

152.003 Recreational Marijuana.

Recreational marijuana is marijuana consumed for non-medical purposes. The definition shall be the same as defined in (Measure 91, Oregon Revised Statutes) and as subsequently amended in Oregon Revised

Statute. The growing, harvesting or processing of marijuana for recreational purposes is considered a for-profit business.

152.003 Recreational Marijuana Business.

A recreational marijuana facility or business is a place where marijuana is sold or traded for profit and intended for non-medical purposes.

152.003 Hemp or Industrial Hemp.

Hemp or industrial hemp shall have the same meaning as defined in ORS 571.305. Growing of Hemp requires a permit from the Oregon Department of Agriculture. Hemp is prohibited in residential zones.

152.003 Farm Use.

UCDO definition of farm Use¹ is the same as ORS 215.203. HB 3400A Section 34 makes clear that marijuana is a farm use as defined in ORS 215.203.²

¹ FARM USE. (as defined in ORS 215.203) (1) The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding, management, and sale of, or the produce of livestock, poultry, fur-bearing animals or honeybees, or for dairying and the sale of dairy products or any agriculture or horticulture use; animal husbandry or any Umatilla County Development Code, Revision Date: April 28, 2015, Page 23 of 436 combination thereof. FARM USE includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. FARM USE also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines, including but not limited to providing riding lessons, training clinics and schooling shows. FARM USE also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. It does not include the use of land subject to the provisions of ORS Chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subdivision (3) of this definition or land as defined in ORS 321.267 (3) or 321.824 (3). (2) CURRENT EMPLOYMENT OF LAND FOR FARM USE means: (a) Farmland, the operation or use of which is subject to any farm-related government program; (b) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry; (c) Land planted in orchards or other perennials, other than land specified in subdivision (2) (d) of this definition, prior to maturity; (d) Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees, or vineyards for at least three years; (e) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable or grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use; (f) Except for land under a single family dwelling, land under buildings supporting accepted farm practices, including the processing facilities allowed by ORS 215.283 (1)(u) and the processing of farm crops into biofuel as commercial activities in conjunction with farm use under ORS 215.283 (2)(a); (g) Water impoundments lying in or adjacent to and in common ownership with farm use land; (h) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of the land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use. (i) Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer's immediate family. For purposes of the paragraph, illness includes injury or infirmity whether or not such illness results in death; (j) Any land described under ORS 321.267 (3) or 321.824 (3); (k) Land used for the processing of farm crops into biofuel, as defined in § 152.003 as BIO-FUEL, if: (i) Only the crops of the landowner are being processed; Umatilla

II. Zones

HB 3400A allows a county to prohibit a medical marijuana dispensary or laboratory, a medical marijuana grow facility or grow operation.

A. **Residential Zones** – See attached proposed amendments.

B. **Commercial and Industrial Zones** – See attached proposed amendments.

C. **Exclusive Farm Use (EFU) Zones.** HB 3400A defines marijuana as a farm crop. However, the law also provides that a “county may (emphasis added) allow the production of marijuana as a farm use on land zoned for farm or forest use in the same manner as the production of marijuana is allowed in EFU zones under this section and ORS 215.213 and 215.283. HB 3400A Section 34(3). Further legal opinion on this is pending, however, it may be that a county may be allowed to prohibit growing marijuana as a crop in the EFU Zone.

What is clear in the bill, relative to EFU Zones, are three land uses that are prohibited in the EFU Zone. Section 34(1) lists the following uses that are prohibited in the EFU Zone:

- (a) A new dwelling used in conjunction with a marijuana crop;
 - (b) A farm stand, as described in ORS 215.213(1)(r) or 215.283(1)(o), used in conjunction with a marijuana crop;
- and

County Development Code, Revision Date: April 28, 2015, Page 24 of 436 (ii) The biofuel from all of the crops purchased for processing into biofuel is used on the farm of the landowner; or, (iii) The landowner is custom processing crops into biofuels from other landowners in the area for their use or sale

² HB 3400A Section 34. (1) Notwithstanding any other provision of law, marijuana is:

- (a) A crop for the purposes of ‘farm use’ as defined in ORS 215.203;
- (b) (b)A crop for purposes of a ‘farm’ and ‘farming practice,’ both as defined in ORS 30.930; A product of farm use as described in ORS 308A.062; and The product of an agricultural activity for purposes of ORS 568.909.

(c) A commercial activity, as described in ORS 215.213(2)(c) or 215.283(2)(a)m, carried on in conjunction with a marijuana crop.

See attached proposed amendments.

D. Grazing Farm Zone (GF). Umatilla County GF Zone is a mixed farm and forest zone. See notes above relative to HB 3400A Section 34 (3).

E. Other Zones. – See attached proposed amendments.

EFU, EXCLUSIVE FARM USE ZONE

Sub-Sections

<u>152.055</u>	<u>Description and purpose</u>
<u>152.056</u>	<u>Uses permitted outright</u>
<u>152.057</u>	<u>Uses permitted with a farm use exempt permit</u>
<u>152.058</u>	<u>Uses permitted with a zoning permit</u>
<u>152.059</u>	<u>Land Use Decisions</u>
<u>152.060</u>	<u>Conditional uses permitted</u>
<u>152.061</u>	<u>Limitations on conditional uses</u>
<u>152.062</u>	<u>Parcel sizes</u>
<u>152.063</u>	<u>Development standards</u>

§ 152.055 DESCRIPTION AND PURPOSE.

The purposes of the EFU, Exclusive Farm Use Zone, are to preserve and maintain agricultural lands for farm use, including range and grazing uses, consistent with existing and future needs for agricultural products, forest and open spaces; to conserve and protect scenic resources; to maintain and improve the quality of air, water and land resources of the county and to establish criteria and standards for farm and non-farm uses and related and supportive uses which are deemed appropriate. It is also the purpose of this use zone to provide the automatic farm use valuation for farms, which qualify under the provisions of ORS Chapter 308.

The provisions in this use zone are subject to automatic legislative amendments as described in §152.004.
(Ord. 2005-02, passed 1-5-05; Ord. 2012-02 passed 1-26-12)

§ 152.056 USES PERMITTED OUTRIGHT.

In an EFU zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to § 152.007:

(A) Farm use, as defined in ORS 215.203 and set out in § 152.003, except the dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.283(1). For the purpose of this section, farm use does not include customary accessory uses and structures (e.g. corrals, pens, barns, sheds, maintenance buildings, farm owned or personal use grain bins or elevators and chemical storage), which are permitted subject to approval of a zoning permit per § 152.026.

Notwithstanding (A) above, the following are not permitted uses in the EFU Zone:

- (1) A new dwelling used in conjunction with a marijuana crop;
- (2) A farm stand in conjunction with a marijuana crop; and
- (3) A commercial activity carried on in conjunction with a marijuana crop.

GF, GRAZING/FARM ZONE

Sub-Sections

<u>152.080</u>	<u>Description and purpose</u>
<u>152.081</u>	<u>Uses permitted outright</u>
<u>152.082</u>	<u>Uses permitted with a farm exempt permit</u>
<u>152.083</u>	<u>Uses permitted with a zoning permit</u>
<u>152.084</u>	<u>Land Use Decisions</u>
<u>152.085</u>	<u>Conditional uses permitted</u>
<u>152.086</u>	<u>Limitations on conditional uses</u>
<u>152.087</u>	<u>Parcel sizes</u>
<u>152.088</u>	<u>Development standards</u>
<u>152.089</u>	<u>General siting and fire siting standards</u>

§ 152.080 DESCRIPTION AND PURPOSE.

The GF, Grazing/Farm, Zone is designed to protect grazing lands, forest uses, and inclusions of agricultural land that are found within the county's mixed use farm/forest areas. The predominant use of the land is for grazing of livestock; however, there are some areas that are under agricultural cultivation and other areas where forest uses occur. The zone is also designed to conserve and protect watersheds, wildlife habitat and scenic values and views within the Blue Mountains. Certain land uses may be allowed conditionally. It is also the purpose of this zone to provide the automatic farm use valuation for farms and ranches which qualify under the provisions of ORS Chapter 308. Please see definition of farm use in § 152.003.

§ 152.081 USES PERMITTED OUTRIGHT.

In a GF Zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to §§ 152.007:

- (A) Farm use, as defined in ORS 215.203 and § 152.003, except the dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.283(1). For the purpose of this section, farm use does not include customary accessory uses and structures (e.g. corrals, pens, barns, sheds, maintenance buildings, farm owned or personal use grain bins or elevators and chemical storage), which are permitted subject to approval of a zoning permit per § 152.026.

Notwithstanding (A) above, the following are not permitted uses in the GF Zone:

- (1) A new dwelling used in conjunction with a marijuana crop;
- (2) A farm stand used in conjunction with a marijuana crop; and
- (3) A commercial activity carried on in conjunction with a marijuana crop.

NR, NON-RESOURCE ZONE

(Ord. 2000-10, passed 10-18-00)

Su-Sections

<u>152.100</u>	<u>Purpose</u>
<u>152.101</u>	<u>Applicability</u>
<u>152.102</u>	<u>Uses Permitted</u>
<u>152.103</u>	<u>Conditional Uses Permitted</u>
<u>152.104</u>	<u>Limitations on Use</u>
<u>152.105</u>	<u>Development/Dimensional Standards</u>
<u>152.106</u>	<u>Site Plan Review</u>

§152.100 PURPOSE

The NR (Non-Resource) Zone is designed to allow for the development of residential and recreational uses on land that is not suitable for resource uses while protecting open space and natural resource values. The zone is designed to implement the Non-Resource (NR) land use designation of the Comprehensive Plan.

The purposes of the NR zone are to:

(1) Allow rural development densities, while preserving large areas of open space by clustering development;

(2) Avoid the creation of new urban areas; and

(3) Allow very large lot development which preserves sensitive areas and a sense of open space.

(Ord. 2000-10, passed 10-18-00)

§152.101 APPLICABILITY

The Non-Resource Zone applies to lands that are designated Non-Resource (NR) in the Comprehensive Plan.

§152.102 USES PERMITTED

(A) *Uses permitted outright.* In a NR Zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to §152.027: farm use, as defined in ORS 215.203 and set out in §152.003, except livestock feed yards and sale yards; hog or poultry farms and the raising of fur-bearing animals or hogs; the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes; and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.203(2)(a).

UC, UNINCORPORATED COMMUNITY ZONE

Sub-Sections

<u>152.115</u>	<u>Purpose</u>
<u>152.116</u>	<u>Uses permitted</u>
<u>152.117</u>	<u>Conditional uses permitted</u>
<u>152.118</u>	<u>Limitations on use</u>
<u>152.119</u>	<u>Dimensional standards</u>

For the purpose of this section, *FARM USE* includes customary accessory uses (e.g. corrals, pens, barns, sheds, maintenance buildings, farm owned or personal use grain bins or elevators, or personal use chemical storage facilities);

§ 152.115 PURPOSE.

The UC, Unincorporated Community, Zone is designed to provide for the continuation and in filling of the small rural trading centers in the county that are located at some distance from developed or developing urban areas. The purpose of this use zone is to provide for needed facilities and services to maintain rural life styles while preserving the natural resources which are adjacent to these designated areas and to maintain the viability of incorporating these communities.

(Ord. 83-4, passed 5-9-83; Ord. 2008-09, passed 6-16-08)

§ 152.116 USES PERMITTED.

(A) *Uses permitted outright.* In a UC Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in ORS 215.203 and set out in § 152.003, except livestock feed yards and sales yards; hog or poultry farms and the raising of fur-bearing animals or hogs; the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes; and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.203(2)(9).

RR-2, RURAL RESIDENTIAL ZONE

the dwelling and other buildings customarily provided in conjunction with farm use referred to in ORS 215.203(2)(a).

Sub-Sections

<u>152.130</u>	<u>Purpose</u>
<u>152.131</u>	<u>Uses permitted</u>
<u>152.132</u>	<u>Conditional uses permitted</u>
<u>152.133</u>	<u>Limitations on use</u>
<u>152.134</u>	<u>Dimensional standards</u>

§ 152.130 PURPOSE.

The RR-2, Rural Residential, Zone is designed to provide lands to enhance the value of rural living and maintain a rural residential atmosphere while accommodating the demand for rural residences. Lots need to be sufficiently large to accommodate private wells and sewage disposal systems as well as gardens and farm animals. Standards for rural land use and development consistent with desired rural character and the capability of the land and natural resources are provided. The zone is applied to areas committed to non-resource use or needed for rural residential land use as provided for in the Comprehensive Plan.

(Ord. 83-4, passed 5-9-83)

§ 152.131 USES PERMITTED.

(A) *Uses permitted outright.* In a RR-2 Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in ORS 215.203 and set out in § 152.003, except livestock feed yards and sale yards; hog or poultry farms and the raising of fur-bearing animals or hogs; the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes; and except

RR-4, RURAL RESIDENTIAL ZONE

dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.203(2)(a).

Sub-Sections

<u>152.155</u>	<u>Purpose</u>
<u>152.156</u>	<u>Uses permitted</u>
<u>152.157</u>	<u>Conditional uses permitted</u>
<u>152.158</u>	<u>Limitations on use</u>
<u>152.159</u>	<u>Dimensional standards</u>

§ 152.155 PURPOSE.

The RR-4, Rural Residential, Zone is designed to provide lands to enhance the value of rural living and maintain a rural residential atmosphere while accommodating the demand for rural residences. Lots need to be sufficiently large to accommodate private wells and sewage disposal systems as well as gardens and farm animals. Standards for rural land use and development consistent with desired rural character and the capability of the land and natural resources are provided. The zone is applied to areas committed to non-resource use or needed for rural residential land use as provided for in the Comprehensive Plan.
(Ord. 83-4, passed 5-9-83)

§ 152.156 USES PERMITTED.

(A) *Uses permitted outright.* In a RR-4 Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in ORS 215.203 and set out in § 152.003, except livestock feed yards and sale yards; hog or poultry farms and the raising of fur-bearing animals or hogs; the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes; and except the

RR-10, RURAL RESIDENTIAL ZONE

with Oregon Revised Statutes; and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.203(2)(a).

Sub-Sections

<u>152.160</u>	<u>Purpose</u>
<u>152.161</u>	<u>Uses permitted</u>
<u>152.162</u>	<u>Conditional uses permitted</u>
<u>152.163</u>	<u>Limitations on use</u>
<u>152.164</u>	<u>Dimensional standards</u>

§ 152.160 PURPOSE.

The RR-10 Rural Residential Zone is designed to provide lands to enhance the value of rural living and maintain a rural residential atmosphere while accommodating the demand for rural residences. Lots need to be sufficiently large to accommodate private wells and sewage disposal systems as well as gardens and farm animals. Standards for rural land use and development consistent with desired rural character and the capability of the land and natural resources are provided. The zone is applied to areas committed to non-resource use or needed for rural residential land use as provided for in the Comprehensive Plan.

(Ord. 2004-13, passed 8-17-04)

§ 152.161 USES PERMITTED.

(A) *Uses permitted outright.* In a RR-10 Zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to §152.027:

(1) Farm use, as defined in ORS 215.203 and set out in §152.003, except livestock feed yards and sale yards; hog or poultry farms and the raising of fur bearing animals or hogs; the growing, harvesting and processing of marijuana in accordance

MUF, MULTIPLE USE FOREST ZONE

Sub-Sections

<u>152.170</u>	<u>Purpose</u>
<u>152.171</u>	<u>Uses permitted</u>
<u>152.172</u>	<u>Conditional uses permitted</u>
<u>152.173</u>	<u>Dimensional standards</u>

§ 152.170 PURPOSE.

The MUF, Multiple Use Forest, Zone is intended to provide medium size acreages within recreation-residential designated areas while also serving as a buffer between Low Density GF zoned lands and higher density Mountain Residential (MR) or Forest Residential (FR) land.

(Ord. 83-4, passed 5-9-83; Ord. 2012-02 passed 1-26-12)

§ 152.171 USES PERMITTED.

(A) *Uses permitted outright.* In a MUF Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in ORS 215.203 and set out in §152.003, except livestock feed yards, mink farms, poultry farms, the raising of hogs, and the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes;

FR, FOREST RESIDENTIAL ZONE

Sub-Sections

<u>152.215</u>	<u>Purpose</u>
<u>152.216</u>	<u>Uses permitted</u>
<u>152.217</u>	<u>Conditional uses permitted</u>
<u>152.218</u>	<u>Dimensional standards</u>

§ 152.215 PURPOSE.

The FR, Forest Residential, Zone is intended to provide medium size acreages within recreation-residential designated areas while also serving as a buffer between Low Density GF zoned lands and higher density Mountain Residential (MR) land. (Ord. 83-4, passed 5-9-83)

§ 152.216 USES PERMITTED.

(A) *Uses permitted outright.* In an FR Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in ORS 215.203 and set out in §152.003, except livestock feed yards, mink farms, poultry farms, the raising of hogs, and ; the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes;

MR, MOUNTAIN RESIDENTIAL ZONE

Sub-Sections

<u>152.230</u>	<u>Purpose</u>
<u>152.231</u>	<u>Uses permitted</u>
<u>152.232</u>	<u>Conditional uses permitted</u>
<u>152.233</u>	<u>Dimensional standards</u>

§ 152.230 PURPOSE.

The MR, Mountain Residential, Zone is designed to provide areas for outdoor recreational and related residential development, and is appropriate in areas having a high recreational value, such as beside lakes, rivers and streams, and close to major recreational facilities such as winter sport areas.

(Ord. 83-4, passed 5-9-83)

§ 152.231 USES PERMITTED.

(A) *Uses permitted outright.* In a MR Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use as defined in ORS 215.203 and set out in § 152.003, excluding livestock feed yards, mink farms, poultry farms, the raising of hogs; ~~the growing,~~ harvesting and processing of marijuana in accordance with Oregon Revised Statutes; and private or public schools;

DI, DEPOT INDUSTRIAL ZONE

Sub-Sections:

<u>152.235</u>	<u>Purpose</u>
<u>152.236</u>	<u>Applicability and subarea descriptions</u>
<u>152.237</u>	<u>Uses permitted</u>
<u>152.238</u>	<u>Conditional uses permitted; general criteria</u>
<u>152.239</u>	<u>Limitations on use</u>
<u>152.240</u>	<u>Master plan and design review</u>
<u>152.241</u>	<u>Dimensional standards</u>

§ 152.235 PURPOSE.

The DI, Depot Industrial, Zone is intended to recognize the regional and statewide significance of the former Umatilla Army Depot (Depot) and to apply appropriate zoning to accommodate planned uses as lands are transferred out of federal ownership.

Leaders of the region (Morrow County, Umatilla County, Morrow and Umatilla Port Districts and Confederated Tribes of the Umatilla Indian Reservation) have been planning for future use of the Depot since the early 1990's. Three overarching goals have guided the planning process for the Depot and are reflected on the consolidated Redevelopment Plan approved by the Umatilla Army Depot Reuse Authority for Morrow and Umatilla Counties.

(A) Military Reuse – accommodating the needs and plans of the Oregon National Guard;

(B) Wildlife Habitat – with a special emphasis on the shrub-steppe habitat; and

(C) Economic Development – job creation and tax base.

The DI Zone will be applied to the portions of the Depot under Umatilla County jurisdiction that are identified for industrial development in the Redevelopment Plan and acknowledged for exceptions to Statewide Planning Goals 11 (Public Facilities & Services) and 14 (Urbanization).

§ 152.239 LIMITATIONS ON USE.

(A) *Retail Sales & Service Uses in the DI Zone.* Retail sales and service uses permitted in the DI Zone are subject to the following limitations:

(1) A maximum of 5 percent of the developable acreage within the Depot Industrial Zone (excluding the restricted area of Subarea 3) may be allocated to retail and service uses.

(2) Retail and service uses may only be located in Subarea 1.

(B) *Use Limitations in Portion of Subarea 3.* Retail sales and service uses permitted in the DI Zone are subject to the following limitations:

(1) A portion of Subarea 3 (Coyote Coulee) will not be available for industrial development because of on-going environmental monitoring requirements and habitat values.

(2) The limited use area is shown with cross-hatch on Figure 1.

(C) *General Limitations on all uses.*

(1) A use is prohibited and shall be in violation of this chapter if it violates an

environmental quality statutes or regulation of the state or federal government.

(2) Materials shall be stored and grounds shall be maintained in such a manner which will not attract or aid in the propagation of insects or rodents or otherwise create a health hazard.

(3) Points of access from a public street or county road to properties in the Depot Industrial Zone shall be located so as to minimize traffic congestion and shall comply with the county Transportation System Plan and obtain necessary Road Access Permits.

(D) The growing, harvesting or processing of marijuana is prohibited in this zone.

RSC, RETAIL/SERVICE COMMERCIAL ZONE

Sub-Sections

<u>152.245</u>	<u>Purpose</u>
<u>152.246</u>	<u>Uses permitted</u>
<u>152.247</u>	<u>Conditional uses permitted</u>
<u>152.248</u>	<u>Limitations on uses</u>
<u>152.249</u>	<u>Design review</u>
<u>152.250</u>	<u>Dimensional standards</u>

§ 152.245 PURPOSE.

The RSC, Retail/Service Commercial, Zone is designed to provide areas outside of urban growth boundaries where specific commercial activities require larger sites than are available inside an urban growth boundary and provide for retail and service- oriented commercial activities to accommodate rural residences.

(Ord. 83-4, passed 5-9-83)

§ 152.248 LIMITATIONS ON USES.

In the RSC Zone, the following limitations and conditions shall apply:

(A) Outside storage areas shall be screened with a site-obscuring fence so that the area shall not be exposed to view from without the property;

(B) Outside display of any scrap or salvage material shall be prohibited.

(Ord. 83-4, passed 5-9-83)

(C) The growing, harvesting or processing of marijuana is prohibited in this zone.

**RRSC, RURAL
RETAIL/SERVICE
COMMERCIAL ZONE**

Sub-Sections

<u>152.251</u>	<u>Purpose</u>
<u>152.252</u>	<u>Uses permitted</u>
<u>152.253</u>	<u>Conditional uses permitted</u>
<u>152.254</u>	<u>Limitations on uses</u>
<u>152.255</u>	<u>Design review</u>
<u>152.256</u>	<u>Dimensional standards</u>

§ 152.251 PURPOSE.

The RRSC, Rural Retail/Service Commercial, Zone is designed to comply with Goal 14 and provide areas outside of urban growth boundaries and unincorporated communities where specific commercial activities require larger sites than are available inside an urban growth boundary and provide for retail and service-oriented commercial activities to accommodate rural residences. This zone is applied to commercial lands outside unincorporated communities and urban growth boundaries for which an exception to Goal 14 has not been approved.

The intent of the Rural Retail/Service Zone is to permit the continuation and expansion of existing uses and to provide rural employment opportunities for new uses that are generally rural-scale and low impact. (Ord. 2005-09, passed 10-13-05)

§ 152.254 LIMITATIONS ON USES.

In the RRSC Zone, the following limitations and conditions shall apply:

(A) Outside storage areas shall be screened with a site-obscuring fence so that

the area shall not be exposed to view from without the property;

(B) Outside display of any scrap or salvage material shall be prohibited.

(C) Except as provided in Paragraphs D through F of this Section, buildings shall not exceed 3,500 square feet of floor space.

(D) Greenhouses, nurseries, mobile home parks, travel trailer parks, and animal hospitals or veterinary clinics primarily devoted to the treatment of large animals may have buildings in excess of 3,500 square feet of floor space.

(E) New hotels and motels are allowed up to a maximum of 35 units, with no limitation on square footage.

(F) Structures that existed on July 1, 2005 may expand to a building size of 4,500 square feet or to a size that is 50% larger than the building size that existed on July 1, 2005, whichever is larger.

(G) Notwithstanding the size limitations for structures contained in this chapter, a lawfully approved or lawfully constructed structure existing as of July 1, 2005 shall not be considered a non-conforming use, and in the event the structure is destroyed or substantially damaged, the structure may be restored to its prior lawfully approved size. (Ord. 2005-09, passed 10-13-05)

(H) The growing, harvesting or processing of marijuana is prohibited in this zone.

CRC, COMMERCIAL RURAL CENTER ZONE

Sub-Sections

<u>152.260</u>	<u>Purpose</u>
<u>152.261</u>	<u>Uses permitted</u>
<u>152.262</u>	<u>Conditional uses permitted</u>
<u>152.263</u>	<u>Limitations on uses</u>
<u>152.264</u>	<u>Dimensional standards</u>

§ 152.260 PURPOSE.

The CRC Commercial Rural Center is designed to provide primary local rural commercial service for rural residences. The purpose of this use zone is to provide standards and review procedures for local rural commercial services that meet the needs of the rural residence and limit any conflicts between these uses and the prevailing rural residential uses. (Ord. 83-4, passed 5-9-83; Ord. 2005-09, passed 10-13-05)

§ 152.261 USES PERMITTED.

(A) *Uses permitted outright.* In a CRC Zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to § 152.027:

(1) Farm use, as defined in ORS 215.203 and set out in §152.003, except livestock feed yards and sale yards; hog or poultry farms; the raising of fur-bearing animals; the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes; and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.203(2)(a).

TC, TOURIST COMMERCIAL ZONE

Sub-Sections

<u>152.275</u>	<u>Purpose</u>
<u>152.276</u>	<u>Uses permitted</u>
<u>152.277</u>	<u>Conditional uses permitted</u>
<u>152.278</u>	<u>Limitations on uses</u>
<u>152.279</u>	<u>Design review</u>
<u>152.280</u>	<u>Dimensional standards</u>

§ 152.275 PURPOSE.

The TC Tourist Commercial Zone is designed to serve the traveling public along major traffic corridors or at appropriate recreational locations. Facilities may include service station, eating establishments or over-night accommodation. The TC Zone is appropriate along major interstate interchange as discussed in the Comprehensive Plan.

(Ord. 83-4, passed 5-9-83)

§ 152.278 LIMITATIONS ON USES.

In the TC Zone, the following limitations on uses shall apply:

(A) Outside storage areas shall be screened with a site-obscuring fence so that the area shall not be exposed to view from the traveling public and surrounding properties;

(B) Storage of scrap or salvage materials shall be prohibited.

(Ord. 83-4, passed 5-9-83)

(C) The growing, harvesting or processing of marijuana is prohibited in this zone.

RTC, RURAL TOURIST COMMERCIAL ZONE

Sub-Sections

<u>152.281</u>	<u>Purpose</u>
<u>152.282</u>	<u>Uses permitted</u>
<u>152.283</u>	<u>Conditional uses permitted</u>
<u>152.284</u>	<u>Limitations on uses</u>
<u>152.285</u>	<u>Design review</u>
<u>152.286</u>	<u>Dimensional standards</u>

§ 152.281 PURPOSE.

The RTC Rural Tourist Commercial Zone is designed to serve the traveling public along major traffic corridors or at appropriate recreational locations outside unincorporated communities and urban growth boundaries. Facilities may include service stations, eating establishments or over-night accommodations. The RTC Zone is appropriate along major interstate interchanges as discussed in the Comprehensive Plan. This zone is applied to commercial lands outside unincorporated communities and urban growth boundaries for which an exception to Goal 14 has not been approved.

The intent of the Rural Tourist Commercial Zone is to permit the continuation and expansion of existing uses and to provide rural scale tourism-related employment uses.
(Ord. 2005-09, passed 10-13-05)

§ 152.284 LIMITATIONS ON USES.

In the RTC Zone, the following limitations on uses shall apply:

(A) Outside storage areas shall be screened with a site-obscuring fence so that the area shall not be exposed to view from

the traveling public and surrounding properties;

(B) Storage of scrap or salvage materials shall be prohibited.

(C) Except as provided in Paragraphs D and E of this Section, buildings shall not exceed 3,500 square feet of floor space.

(D) Motels and hotels that existed on July 1, 2005 may expand up to 35 units or up to 50% of the number of existing units, whichever is larger, with no limitation on square footage.

(E) Structures that existed on July 1, 2005 may expand to a building size of 4,500 square feet or to a size that is 50% larger than the building size that existed on July 1, 2005, whichever is larger.

(F) Notwithstanding the size limitations for structures contained in this chapter, a lawfully approved or lawfully constructed structure existing as of July 1, 2005 shall not be considered a non-conforming use, and in the event the structure is destroyed or substantially damaged, the structure may be restored to its prior lawfully approved size.
(Ord. 2005-09, passed 10-13-05)

(G) The growing, harvesting or processing of marijuana is prohibited in this zone.

AB, AGRI-BUSINESS ZONE

Sub-Sections

<u>152.290</u>	<u>Purpose</u>
<u>152.291</u>	<u>Uses permitted</u>
<u>152.292</u>	<u>Conditional uses permitted</u>
<u>152.293</u>	<u>Limitations on use</u>
<u>152.294</u>	<u>Dimensional standards</u>

§ 152.290 PURPOSE.

The AB Agribusiness Zone is designed to provide areas of certain types of agriculturally oriented businesses and services which may not otherwise need to be located in more intensive commercial or industrial areas. It may be appropriate for storage, handling or processing of agricultural products, or provide area for agriculturally oriented businesses which require larger areas.

(Ord. 83-4, passed 5-9-83)

§ 152.291 USES PERMITTED.

(A) *Uses permitted outright.* In an AB Zone, the following uses and their accessory uses are permitted without a zoning permit pursuant:

(1) Farm use as defined in ORS 215.203 and set out in §152.003, except livestock feed yards and sale yards; hog or poultry farms and the raising of fur-bearing animals; the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes; and except the dwellings and other buildings customarily provided in conjunction with farm use referred to in ORS 215.203(2)(a).

LI, LIGHT INDUSTRIAL ZONE

Sub-Sections

<u>152.301</u>	<u>Purpose</u>
<u>152.302</u>	<u>Uses permitted</u>
<u>152.303</u>	<u>Conditional uses permitted</u> <u>general criteria</u>
<u>152.304</u>	<u>Limitations on use</u>
<u>152.305</u>	<u>Design review</u>
<u>152.306</u>	<u>Dimensional standards</u>

§ 152.301 PURPOSE.

The LI Light Industrial Zone is designed to provide areas for industrial use that are less intensive than heavy industrial uses, and are less offensive to adjacent land uses, and are compatible with certain commercial uses. It is designed to help the county expand and diversify its economic base. The LI Zone is appropriate for areas near major transportation facilities which are generally suited for industry and include highways, railroads, and waterways.
(Ord. 83-4, passed 5-9-83)

§ 152.304 LIMITATIONS ON USE.

(A) All business, commercial and industrial activities, and storage allowed in an LI, Light Industrial, Zone shall be conducted wholly within a building or shall be screened from view from adjacent public roads or surrounding properties in farm, residential or commercial zones, unless the entire activity is conducted more than 500 feet from said surrounding property or road. Outdoor storage of farm and forest products or equipment shall not be subject to this limitation;

(B) All off-street loading areas shall be

screened from view if adjoining properties are in a residential zone;

(C) All noise, vibration, dust, odor, smoke, appearance or other objectionable factors involved in any activity shall comply with appropriate state and federal regulations.
(Ord. 83-4, passed 5-9-83; Ord. 2005-09, passed 10-13-05)

(D) The growing, harvesting or processing of marijuana is prohibited in this zone.

RLI, RURAL LIGHT INDUSTRIAL ZONE

Sub-sections

<u>152.307</u>	<u>Purpose</u>
<u>152.308</u>	<u>Uses permitted</u>
<u>152.309</u>	<u>Conditional uses permitted; general criteria</u>
<u>152.310</u>	<u>Limitations on use</u>
<u>152.311</u>	<u>Design review</u>
<u>152.312</u>	<u>Dimensional standards</u>

§152.307 PURPOSE.

The RLI Rural Light Industrial Zone is designed to provide areas for industrial uses that are appropriate for rural locations, less intensive than heavy industrial uses, are less offensive to adjacent land uses, and are compatible with certain commercial uses. It is designed to help the county expand and diversify its economic base. The RLI Zone is appropriate for areas near major transportation facilities which are generally suited for industry and include highways, railroads and waterways. This zone is applied to lands zoned industrial prior to January 1, 2004, that are outside unincorporated communities and urban growth boundaries.

The intent of the Rural Light Industrial Zone is to permit the continuation and expansion of existing uses and to provide rural employment opportunities for new uses that are generally rural-scale and low impact or provide for the processing and manufacturing of resource products such as timber and forest related products, farm crops and produce, mineral and aggregate resources, or the maintenance and repair of mechanical equipment related to farm or forest uses.

(Ord. 2005-09, passed 10-13-05)

§152.310 LIMITATIONS ON USE.

(A) All business, commercial and industrial activities, and storage allowed in an RLI, Rural Light Industrial, Zone shall be conducted wholly within a building or shall be screened from view from adjacent public roads or surrounding properties in residential or commercial zones, unless the entire activity is conducted more than 500 feet from said surrounding property or road. Outdoor storage of farm and forest products or equipment shall not be subject to this limitation;

(B) All off-street loading areas shall be screened from view if adjoining properties are in a residential zone;

(C) All noise, vibration, dust, odor, smoke, appearance or other objectionable factors involved in any activity shall comply with appropriate state and federal regulations.

(D) A lawfully approved or lawfully constructed structure existing as November 12, 2005 shall not be considered a non-conforming use, and in the event the structure is destroyed or substantially damaged, the structure may be restored to its prior lawfully approved size.

(Ord. 2005-09, passed 10-13-05)

(E) The growing, harvesting or processing of marijuana is prohibited in this zone.

LRLI, LIMITED RURAL LIGHT INDUSTRIAL ZONE

Sub-Sections

<u>152.313</u>	<u>Purpose</u>
<u>152.314</u>	<u>Uses permitted</u>
<u>152.315</u>	<u>Conditional uses permitted;</u> <u>general criteria</u>
<u>152.316</u>	<u>Limitations on use</u>
<u>152.317</u>	<u>Design review</u>
<u>152.318</u>	<u>Dimensional standards</u>

§152.313 PURPOSE.

The LRLI, Limited Rural Light Industrial Zone, is designed to provide areas for industrial uses that are appropriate for rural locations, less intensive than heavy industrial uses, are less offensive to adjacent land uses, and are compatible with certain commercial uses. It is designed to help the county expand and diversify its economic base. The LRLI Zone is appropriate for areas near major transportation facilities which are generally suited for industry and include highways, railroads and waterways. This zone is applied to lands zoned industrial outside unincorporated communities and urban growth boundaries after January 1, 2004.

The intent of the Limited Rural Light Industrial Zone is to permit the continuation and expansion of existing uses and to provide rural employment opportunities for new uses that are generally rural scale and low impact or provide for the processing and manufacturing of resource products such as timber and forest related products, farm crops and produce, mineral and aggregate resources, or the maintenance and repair of mechanical equipment related to farm or forest uses.

(Ord. 2005-09, passed 10-13-05)

§152.316 LIMITATIONS ON USE.

(A) All business, commercial and industrial activities, and storage allowed in an LRLI, Limited Rural Light Industrial Zone shall be conducted wholly within a building or shall be screened from view from adjacent public roads or surrounding properties in farm, residential or commercial zones, unless the entire activity is conducted more than 500 feet from said surrounding property or road. Outdoor storage of farm and forest products or equipment shall not be subject to this limitation;

(B) All off street loading areas shall be screened from view if adjoining properties are in a residential zone;

(C) All noise, vibration, dust, odor, smoke, appearance or other objectionable factors involved in any activity shall comply with appropriate state and federal regulations.

(D) Expansion of structures that existed on November 12, 2005, shall be permitted under the following circumstances:

(1) If the use is not subject to a size limitation there shall be no limitations on expansion.

(2) If the use is subject to a size limitation, the use may expand to a building size of 40,000 square feet or to a size that is 50% larger than the building size that existed on November 12, 2005, whichever is larger

(E) Notwithstanding the size limitations for structures contained in this section, a lawfully approved or lawfully constructed structure existing as November 12, 2005, shall not be considered a non-conforming use, and in the event the structure is

destroyed or substantially damaged, the structure may be restored to its prior lawfully approved size.

(Ord. 2005-09, passed 10-13-05)

(F) The growing, harvesting or processing of marijuana is prohibited in this zone.

HI, HEAVY INDUSTRIAL ZONE

Sub-Sections

<u>152.320</u>	<u>Purpose</u>
<u>152.321</u>	<u>Uses permitted</u>
<u>152.322</u>	<u>Conditional uses permitted; general criteria</u>
<u>152.323</u>	<u>Limitations on use</u>
<u>152.324</u>	<u>Design review</u>
<u>152.325</u>	<u>Dimensional standards</u>

or county road to properties in a HI Heavy Industrial Zone shall be located so as to minimize traffic congestion and direct traffic away from residential streets.

(Ord. 83-4, passed 5-9-83)

(E) The growing, harvesting or processing of marijuana is prohibited in this zone.

§ 152.320 PURPOSE.

The HI Heavy Industrial Zone is designed to provide for industrial uses where potential conflicts with adjacent land uses will have a minimal negative impact. It is designed to help the county expand and diversify its economic base. The HI Zone is appropriate for areas adjacent to major transportation facilities such as railways, major highways and waterways.

(Ord. 83-4, passed 5-9-83)

§ 152.323 LIMITATIONS ON USE.

(A) A use is prohibited which has been declared a nuisance by statute, by action of Commissioners or by a court of competent jurisdiction;

(B) A use is prohibited and shall be in violation of this chapter if it violates an environmental quality statute or regulation of the state or federal government;

(C) Materials shall be stored and grounds shall be maintained in such a manner which will not attract or aid in the propagation of insects or rodents or otherwise create a health hazard;

(D) Points of access from a public street

RHI, RURAL HEAVY INDUSTRIAL ZONE

Sub-Sections

<u>152.326</u>	<u>Purpose</u>
<u>152.327</u>	<u>Uses permitted</u>
<u>152.328</u>	<u>Conditional uses permitted;</u> <u>general criteria</u>
<u>152.329</u>	<u>Limitations on use</u>
<u>152.330</u>	<u>Design review</u>
<u>152.331</u>	<u>Dimensional standards</u>

§152.326 PURPOSE.

The RHI Rural Heavy Industrial Zone is designed to provide for industrial uses that are appropriate for rural locations and where potential conflicts with adjacent land uses will have a minimal negative impact. It is designed to help the county expand and diversify its economic base. The RHI Zone is appropriate for areas adjacent to major transportation facilities such as railways, major highways and waterways.

This zone is applied to industrial lands outside unincorporated communities and urban growth boundaries where an exception to Goal 14 has not been approved. This rural zone will apply to lands that were zoned industrial prior to January 1, 2004.

The intent of the Rural Heavy Industrial Zone is to permit the continuation and expansion of existing uses and to provide rural employment opportunities for new uses that are generally rural-scale and low impact or provide for the processing and manufacturing of resource products such as timber and forest related products, farm crops and produce, minerals and aggregate resources, or the maintenance and repair of mechanical equipment related to farm or forest uses.

(Ord. 2005-13, passed 5-31-2005; Ord. 2006-04, passed 3-1-2006)

§152.329 LIMITATIONS ON USE.

(A) A use is prohibited which has been declared a nuisance by statute, by action of Commissioners or by a court of competent jurisdiction;

(B) A use is prohibited and shall be in violation of this chapter if it violates an environmental quality statute or regulation of the state or federal government;

(C) Materials shall be stored and grounds shall be maintained in such a manner which will not attract or aid in the propagation of insects or rodents or otherwise create a health hazard;

(D) Points of access from a public street or county road to properties in an RHI Rural Heavy Industrial Zone shall be located so as to minimize traffic congestion and direct traffic away from residential streets.
(Ord. 2005-13, passed 5-31-2005; Ord. 2006-04, passed 3-1-2006)

(E) The growing, harvesting or processing of marijuana is prohibited in this zone.

LRHI, LIMITED RURAL HEAVY INDUSTRIAL ZONE

Sub-Sections

<u>152.332</u>	<u>Purpose</u>
<u>152.333</u>	<u>Uses permitted</u>
<u>152.334</u>	<u>Conditional uses permitted;</u> <u>general criteria</u>
<u>152.334A</u>	<u>Limitations on use</u>
<u>152.334B</u>	<u>Design review</u>
<u>152.334C</u>	<u>Dimensional standards</u>

§ 152.332 PURPOSE.

The LRHI Limited Rural Heavy Industrial Zone is designed to provide for industrial uses that are appropriate for rural locations and where potential conflicts with adjacent land uses will have a minimal negative impact. It is designed to help the county expand and diversify its economic base. The LRHI Zone is appropriate for areas adjacent to major transportation facilities such as railways, major highways and waterways. This zone is applied to lands outside unincorporated communities and urban growth boundaries zoned after January 1, 2004 for industrial use.

The intent of the Limited Rural Heavy Industrial Zone is to permit the continuation and expansion of existing uses and to provide rural employment opportunities for new uses that are generally rural-scale and low impact or provide for the processing and manufacturing of resource products such as timber and forest related products, farm crops and produce, minerals and aggregate resources, or the maintenance and repair of mechanical equipment related to farm or forest uses.

(Ord. 2006-04, passed 3-1-2006)

§ 152.334A LIMITATIONS ON USE.

(A) A use is prohibited which has been declared a nuisance by statute, by action of Commissioners or by a court of competent jurisdiction;

(B) A use is prohibited and shall be in violation of this chapter if it violates an environmental quality statute or regulation of the state or federal government;

(C) Materials shall be stored and grounds shall be maintained in such a manner which will not attract or aid in the propagation of insects or rodents or otherwise create a health hazard;

(D) Points of access from a public street or county road to properties in an LRHI Limited Rural Heavy Industrial Zone shall be located so as to minimize traffic congestion and direct traffic away from residential streets.

(E) Expansion of structures that existed on the date of this ordinance shall be permitted under the following circumstances:

(1) If the use is not subject to a size limitation there shall be no limitations on expansion.

(2) If the use is subject to a size limitation, the use may expand to a building size of 40,000 square feet or to a size that is 50% larger than the building size that existed on the date of adoption of this ordinance, whichever is larger

(F) Size limits on uses permitted in the LRHI Zone shall not apply to any properties for which an exception to Statewide Planning Goal 14, Urbanization, has been approved.

(G) Notwithstanding the size limitations for structures contained in this ordinance, a lawfully approved or lawfully constructed structure existing as of the effective date of this ordinance shall not be considered a non-conforming use, and in the event the structure is destroyed or substantially damaged, the structure may be restored to its prior lawfully approved size.

(Ord. 2006-04, passed 3-1-2006)

(H) The growing, harvesting or processing of marijuana is prohibited in this zone.

FU-10, FUTURE URBAN ZONE

referred to in ORS 215.203(2)(a).

Sub-Sections

<u>152.335</u>	<u>Purpose</u>
<u>152.336</u>	<u>Uses permitted</u>
<u>152.337</u>	<u>Conditional uses permitted</u>
<u>152.338</u>	<u>Limitations on use</u>
<u>152.339</u>	<u>Dimensional standards</u>

§ 152.335 PURPOSE.

The FU-10 Future Urban Zone is designed to implement the growth management policies around the Hermiston Urban Growth Boundary; to provide for interim uses consistent with the plan policies until conversion to urban uses; to retain the land suitable for future urban development in large parcels which will enable more cost effective urban redevelopment of the land. Lots are kept large as urban services are not yet available to these areas and development is limited to the land capability of accepting septic tanks and drainfields while still providing safe drinking water.
(Ord. 83-4, passed 5-9-83)

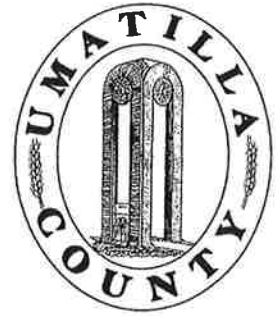
§ 152.336 USES PERMITTED.

(A) *Uses permitted outright.* In a FU-10 Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Farm use, as defined in ORS 215.203 and set out in § 152.003, except livestock feed yards and sales yards; hog or poultry farms; the raising of fur-bearing animals; the growing, harvesting and processing of marijuana in accordance with Oregon Revised Statutes; and except the dwellings and other buildings customarily provided in conjunction with farm uses

Umatilla County

Department of Land Use Planning



AGENDA

Umatilla County Planning Commission

Public Hearing

Thursday, April 23, 2015, 6:30 p.m.

Justice Center Media Room

Pendleton, OR

Members of Planning Commission

Randy Randall, Chair
Gary Rhinhart, Vice-Chair
Tammie Williams
Don Wysocki
David Lee
Don Marlatt
Suni Danforth
Cecil Thorne

Members of Planning Staff

Tamra Mabbott, Planning Director
Carol Johnson, Senior Planner

1. Call to Order

2. New Hearing:

REQUEST FOR A PUBLIC HEARING submitted by JAMES BREEDING on appeal of the following application. CONDITIONAL USE REQUEST, #C-1238-14, applicant JAMES BREEDING. Mr. Breeding applied for a conditional use permit to establish a PERSONAL AIRSTRIP on property he owns at 84943 Triangle Station Road, Milton-Freewater, OR 97862, Tax Lot 190, Assessor's Map 6N3522C. The applicant's property is located approximately 1000 feet north of Triangle Road and 3 miles northwest of the City of Milton-Freewater. A Personal Airstrip established on land zoned Exclusive Farm Use (EFU) may be permitted through a Conditional Use Permit. The standards that shall be met for a Conditional Use Permit to establish a Personal Airstrip are found in UCDC Sections 152617 (N), 152.061 & 152.615. The Breeding application was processed administratively as provided in UCDC Section 152.769, and a decision was made by the Planning Director to deny Conditional Use Permit, #C-1238-14. The applicant timely appealed the Planning Director's decision requesting a public hearing before the County Planning Commission as allowed in UCDC Section 152.766.

3. New Hearing:

TEXT AMENDMENT #T-15-061, filed by Umatilla County, the purpose is to adopt standards in the UCDO for firearms training facilities consistent with Oregon Administrative Rules Chapter 660-division 33 Section 0130(2)(c). The standards will specifically allow the county to provide for expansion of certain facilities, including a firearms training facility as defined in ORS 197.770. The criteria of approval are found in Umatilla County Development Code 152.750-152.754

4. New Hearing:

TEXT AMENDMENT #T-15-062, filed by Umatilla County. The text amendment will amend section 152.003 adopting definitions of medical marijuana and recreational marijuana and amendment to section 152.616(III) adopting conditional use standards. The text amendment also will amend specific zones to show where a dispensary or laboratory or processing facility may be allowed as a conditional use. The specific zones include: 152.247(N) Retail, Service, Commercial Zone; 152.253(O) Rural Retail, Service, Commercial Zone; 152.303(A)(21) Light Industrial Zone; 152.309(A)(15) Rural Light Industrial Zone and 152.315(A)(15) Limited Rural Light Industrial Zone. Criteria of approval are found in Umatilla County Development Code 152.750-152.754.

5. Status of Appeals or Board actions.

Next Scheduled Meeting:

Thursday, May 28, 2015, 6:30 p.m., Justice Center Media Room, Pendleton, OR.

Umatilla County

Department of Land Use Planning



DIRECTOR
TAMRA
MABBOTT

April 14, 2015

LAND USE
PLANNING,
ZONING AND
PERMITTING

MEMO

TO: Planning Commission

CODE
ENFORCEMENT

FROM: Tamra Mabbott

CC: Interested Parties

SOLID WASTE
COMMITTEE

RE: Amendment to adopt land use standards for medical marijuana

SMOKE
MANAGEMENT

The purpose of this amendment is to adopt definitions and standards for medical marijuana growing, processing and dispensing in Umatilla County. The amendments also include a definition of recreational marijuana; however, standards for recreational marijuana are excluded at this time due to the numerous changes likely to come out of the Oregon Legislature.

GIS AND
MAPPING

RURAL
ADDRESSING

LIAISON,
NATURAL
RESOURCES &
ENVIRONMENT

Currently, the county code does not have a definition of marijuana, medical and/or recreational. Absent a definition, the code may allow, inadvertently, a marijuana business to occur as part of another business. For example, if a zone allows a commercial greenhouse and the code is silent on marijuana, county land use code would not limit what crop(s) were grown in the greenhouse. Under the proposed land use definitions and standards, a commercial greenhouse would only be able to grow marijuana for commercial sale if a land use permit was issued specifically for marijuana.

Civil and Land Use Versus other laws

It is important to note that land use codes in no way effect the laws that are enforced by the Sheriff's Office, Oregon State Police, Oregon Health Authority and federal agencies.

Moratorium

Today the Board of Commissioners adopted a moratorium on medical marijuana dispensaries, effective thru December 31, 2015. The proposed land use standards are relevant insofar as a legal challenge could overturn the moratorium, and, so that standards are in place once the moratorium expires. The moratorium could be rescinded prior to December 31st if the Board finds that adequate safeguards are in place.

The moratorium does not limit the otherwise legally permissible growing and processing of medical marijuana. Proposed land use code amendments will

define growing and processing of medical marijuana and include standards for permitting.

Draft Standards

The attached Development Code standards are draft and will likely require modification. For example, the buffer is written as a one mile buffer, but could be amended to be one half mile or 1,000 feet. The attached maps show one half mile and 1,000 feet. To note, Mr. Rob Bovett, Chief Counsel for the Association of Oregon Counties and foremost expert on marijuana, reviewed the attached draft code definitions and amendments.

Exhibits

1. Draft Code Language
2. Maps of Commercial and Industrial lands with buffers
3. "Oregon Health Authority Oregon Medical Marijuana Program: overview"
4. "Q and A" from Oregon Health Authority
5. "Local Government Regulation of Medical Marijuana In Oregon"
6. Moratorium adopted by Board of Commissioners

March 17, 2015

Proposed Amendments to Umatilla County Development Ordinance

I. Definitions UCDO Section 152.003

152.003 Medical Marijuana Dispensary (MMJ) or Laboratory.

A Medical Marijuana Dispensary shall be the same as defined in OAR 333-008-1050 and licensed by the Oregon Health Authority and registered as a business with the Office of the Secretary of State.

152.003 Medical Marijuana (MMJ) Grow Facility or Operation property.

A Medical Marijuana (MMJ) Grow Site or Grow operation shall be the same as defined in OAR 333 Division 8 where a single parcel of land is used as a grow operation for more than two MMJ cardholders (or patients). A medical marijuana grow facility may also be defined as an operation (single parcel of land) where marijuana is grown for two or more medical marijuana cardholders or persons who consume marijuana for medical purposes. Growing of medical marijuana is a not for profit commerce.

152.003 Medical Marijuana Processing Facility.

A Medical Marijuana Processing Facility is a place where marijuana is processed for human consumption.

152.003 Pain Management Clinic.

A pain management clinic is a business or clinic where professional treatment is provided to persons who have chronic pain or addictions.

152.003 Recreational Marijuana.

Recreational marijuana is marijuana consumed for non-medical purposes. The definition shall be the same as defined in (Measure 91, Oregon Revised Statutes) and as subsequently amended in ORS. The growing, harvesting or processing of marijuana for recreational purposes is considered a for-profit business.

harvesting or processing of marijuana for recreational purposes is considered a for-profit business.

152.003 Recreational Marijuana Business.

A recreational marijuana facility or business is a place where marijuana is sold or traded for profit and intended for non-medical purposes.

II. Zones

A Medical Marijuana Dispensary or Laboratory and a Medical Marijuana Grow Facility or Grow Operation

A medical marijuana dispensary or laboratory and a Medical Marijuana Grow Facility or Grow Operation may be permitted as a conditional use in the following zones, as listed in Umatilla County Development Ordinance Sections:

Retail, Service Commercial (RSC) 152.247(N)

Rural Retail, Service, Commercial (RRSC) 152.253(O)

Light Industrial (LI) 152.303(A)(21)

Rural Light Industrial (RLI) 152.309 (A)(15)

Limited Rural Light Industrial (LRLI) 152.315(A)(15)

III. Conditional Use Permit Standards for Medical Marijuana (MMJ) Dispensary or Laboratory or Processing Facility.

Purpose: This section will establish the regulations for the siting of a medical marijuana dispensary or laboratory or processing facility as authorized by state law.

Conditional Use Permit Standards 152.616(III)

- a. Hours of operation shall be limited to hours between 9:00 am to 7:00 pm.

- b. A Dispensary or Laboratory shall make available to the public information about the health of medical marijuana consumption (as provided by County Public Health).
- c. Post in public view the state license, county license and/or permit.
- d. Product quality shall be assured by compliance with Oregon Health Authority testing and licensing. Documentation of inspections from OHA and laboratories available during hours of operation.
- e. A facility shall be located no less than one mile from any public or private schools, day care facilities, youth sports facilities, public pools, libraries, play grounds, designated school routes, and community colleges or career schools serving individuals under the age of 21 and churches.
- f. A facility shall be no closer than 1,000 feet of another MMJ facility.
- g. A dispensary or laboratory may be sited on the same lot or parcel as a “medical marijuana grow facility” if the dispensary is segregated from the grow facility.
- h. A dispensary shall be subject to permitting and inspections by County Environmental Health Division of the Public Health Department.
- i. Products sold at the dispensary must come from a registered grow facility, as defined by OHA and county code.
- j. Medical marijuana products shall be properly stored in a secure location so as to avoid access to persons under age 21.
- k. Products shall be properly labeled and shall include appropriate health advisory warnings.
- l. Applicant/owner shall sign and record an acknowledgement that he/she is responsible for compliance with federal laws and county is held harmless.

- m. Consumption of the product on-site shall be restricted.
- n. Consumption of the product shall not be in the presence of children (persons under age 21).
- o. Applicant/landowner shall comply with permitting and licensing requirements of the Oregon Health Division's Oregon Medical Marijuana Program.
- p. Applicant/landowner shall comply with any standards recommended by local law enforcement.
- q. Business shall not employ persons with a history of criminal convictions related to Schedule I or Schedule II drugs, as defined in the Comprehensive Drug Abuse Prevention and Control Act of 1970 and as may be subsequently amended.
- r. Business owner/landowner shall provide proof of liability insurance for the business.
- s. Selling, trading or consuming of recreational marijuana shall be prohibited at a medical marijuana dispensary or laboratory.
- t. Violation of the standards and conditions of the conditional use permit will result in immediate revocation of the land use permit and a citation to Circuit Court. Note: Where a warning is not issued and a citation is issued immediately, this process is shorter than the process for other land use violations.

IV. Conditional Use Permit Standards for a Medical Marijuana Grow Facility or Operation.

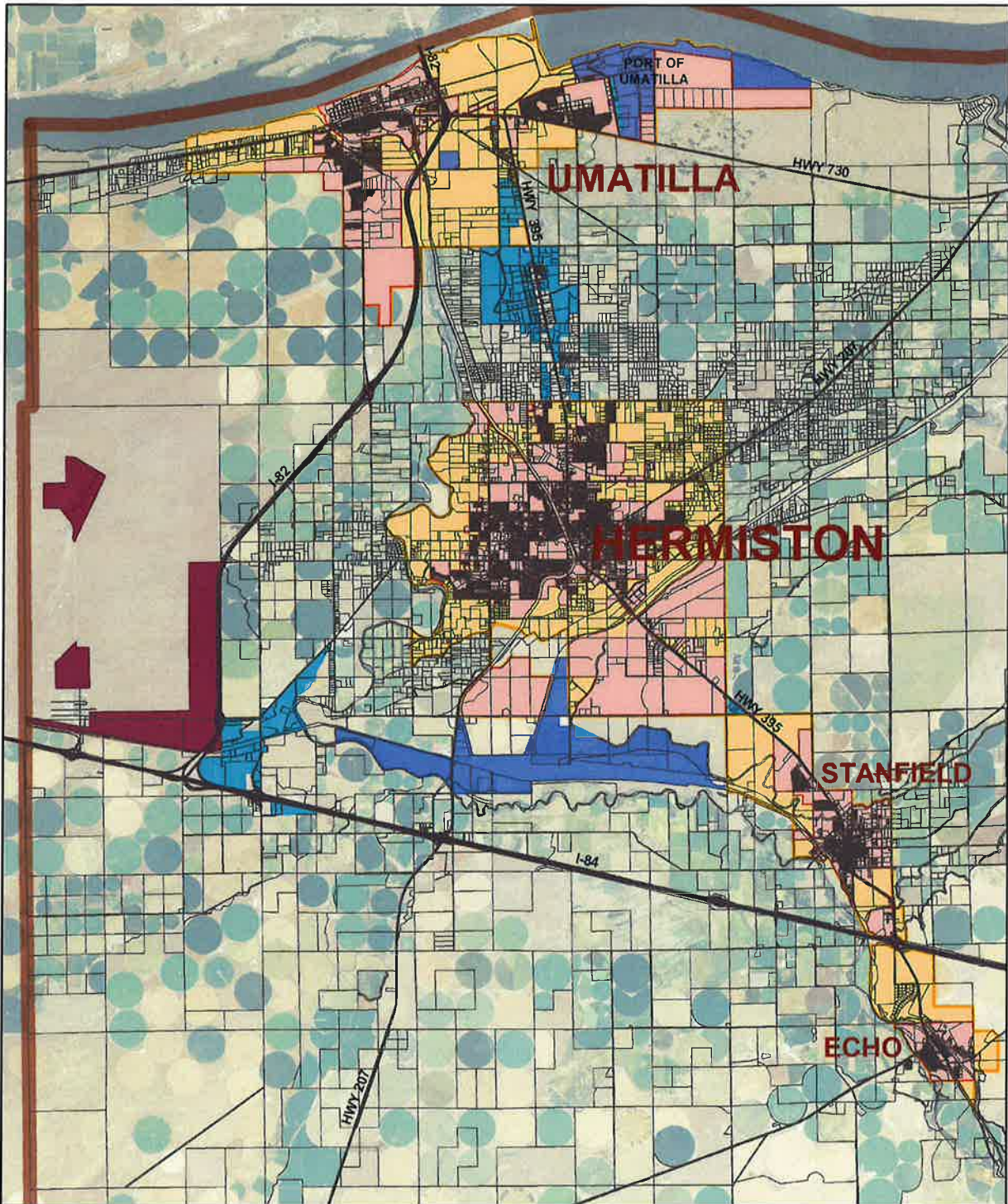
The purpose of permitting a medical marijuana grow facility is to provide sufficient regulatory oversight so as to prevent the public, especially youth,

from adverse exposure. Zones where a Grow Operation may be permitted are listed above.

Conditional Use Permit Standards 152.616(JJJ)

- a. A grow facility must be secured to prevent public access.
- b. Facilities must not be visible from the street or alley abutting the property.
- c. Medical marijuana must be grown indoors or fully shielded from off-premise view.
- d. Use of the product on site is prohibited.
- e. Operator/owner must possess a permit or license granted by the Oregon Health Authority and be in good standing with licensing requirements of Oregon Health Authority. The address/location listed on the OHA license shall be the same as for the grow facility permitted by county.
- f. A grow facility located on a single parcel of land may grow medical marijuana for a maximum of four (4) medical marijuana card holders.
- g. Hazardous materials storage and containment must be reviewed and approved by the local Fire Marshall and the Building Official.
- h. The facility shall be setback a minimum of one mile from any school, licensed daycare, medical or addiction treatment or rehabilitation facility.
- i. Operator/owner must have on-site at all times current documentation of inventory and OHA license.

- j. Operator/owner shall make available to the public, information about public health concerns. Such information shall be made available by County Health Department.
- k. Violation of the standards and conditions will result in immediate notice to revoke the land use permit and issuance of a citation to Circuit Court. Note: Where a warning is not issued and a citation is issued immediately, this process is shorter than the process for other land use violations.
- l. Permit shall be subject to annual review and associated fee, by the Planning Department.

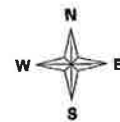


West Umatilla County Industrial Zoned Areas

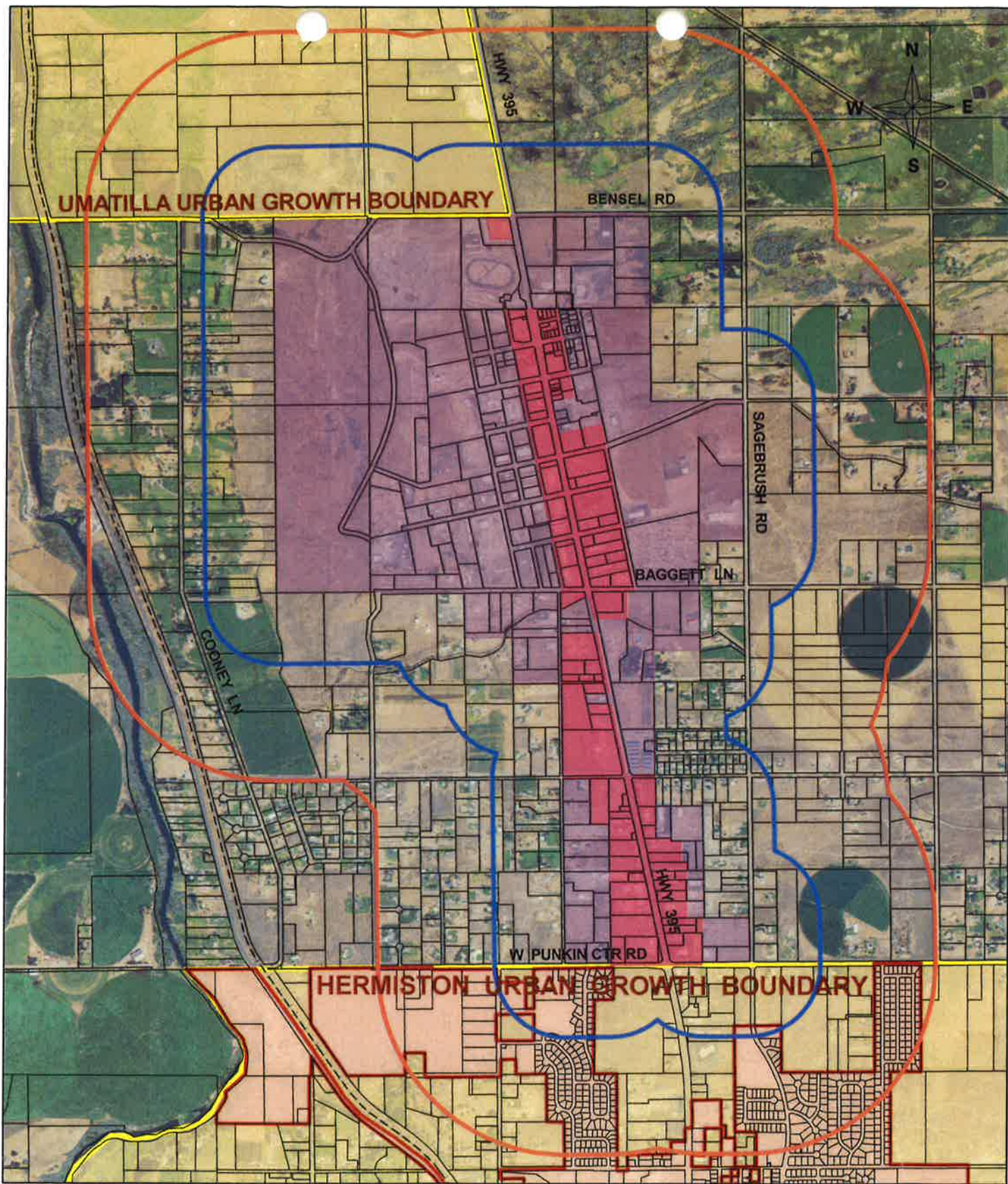


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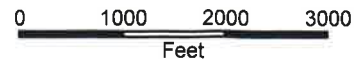
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|---|-----------------------|---|---------------------------------|
|  | City Limits |  | Light Industrial Zone |
|  | Urban Growth Boundary |  | Heavy & General Industrial Zone |
|  | Depot Industrial Zone | | |









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Date: 11/2/11

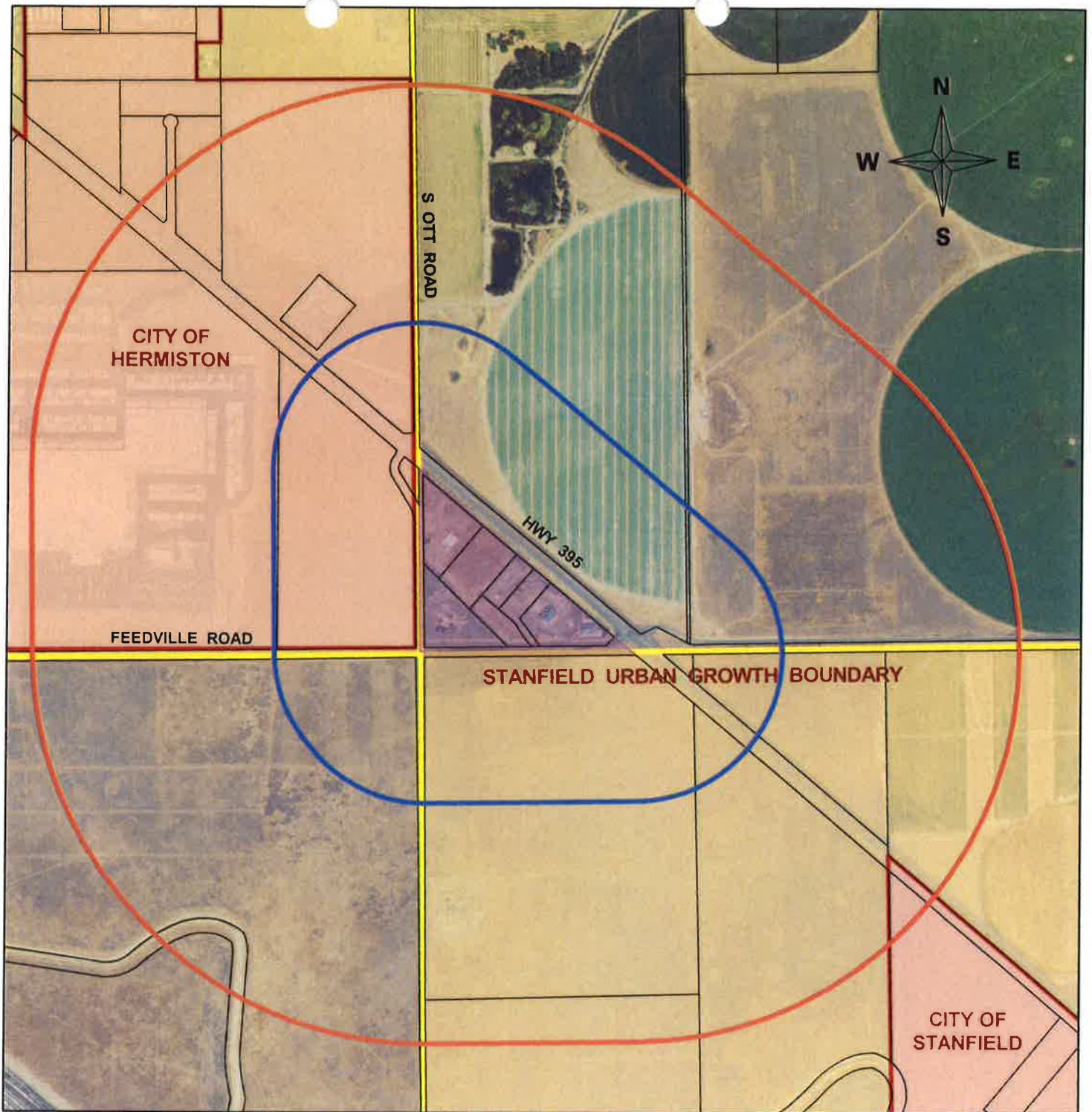


HIGHWAY 395 N COMMERCIAL & LIGHT INDUSTRIAL SITES

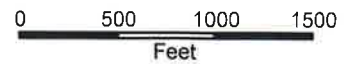


Legend

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|--|-------------------|---|------------------------|---|-----------------|
|  | City Limits Area |  | Commercial Zones |  | 1/2 Mile Buffer |
|  | Urban Growth Area |  | Light Industrial Zones |  | 1000' Buffer |



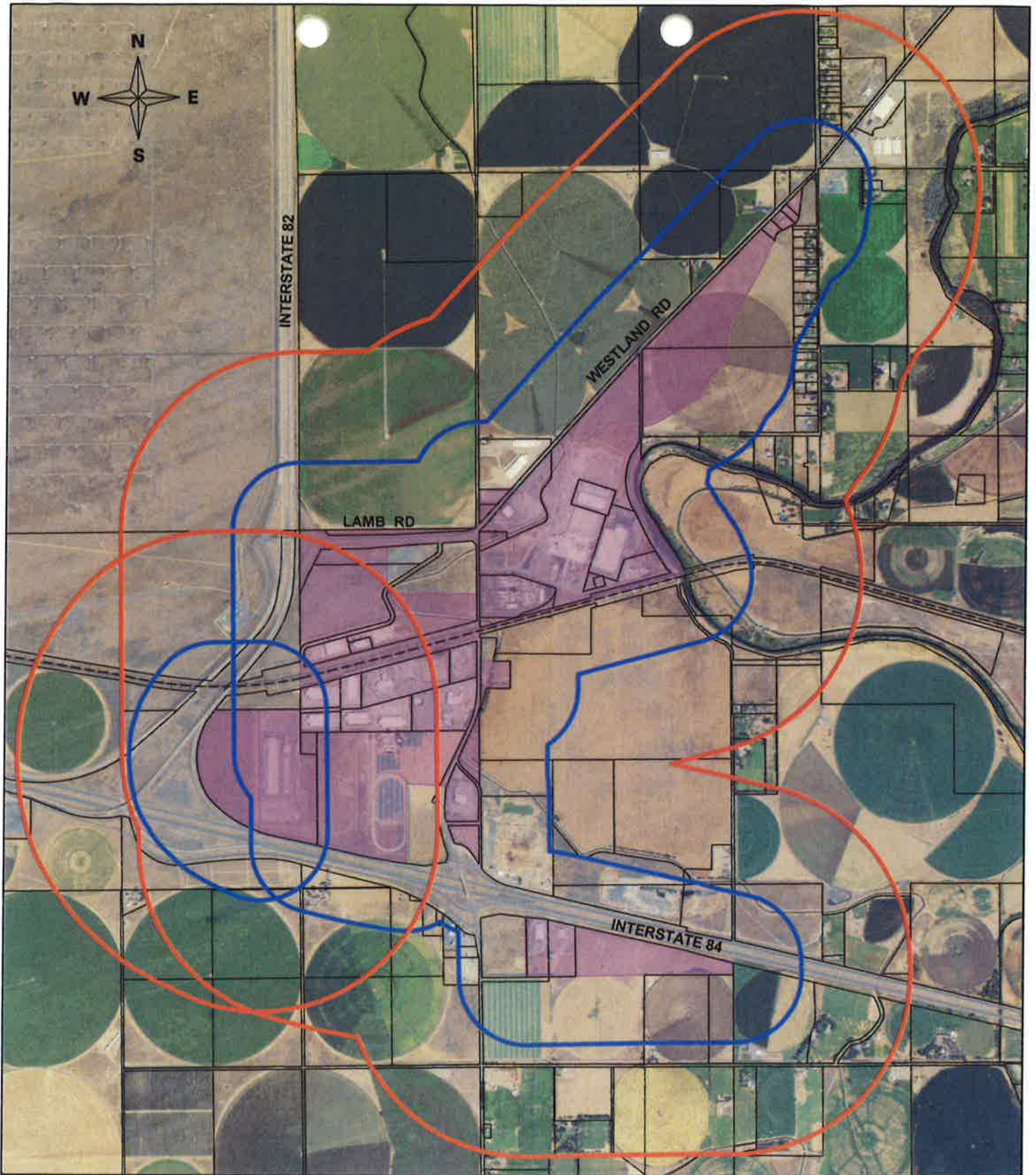
HIGHWAY 395 S COMMERCIAL & LIGHT INDUSTRIAL SITES



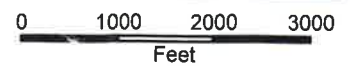
Legend

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|---|------------------------|---|-----------------|
|  | City Limits |  | 1/2 Mile Buffer |
|  | Urban Growth Area |  | 1000' Buffer |
|  | Light Industrial Zones | | |

2014 AERIAL PHOTO
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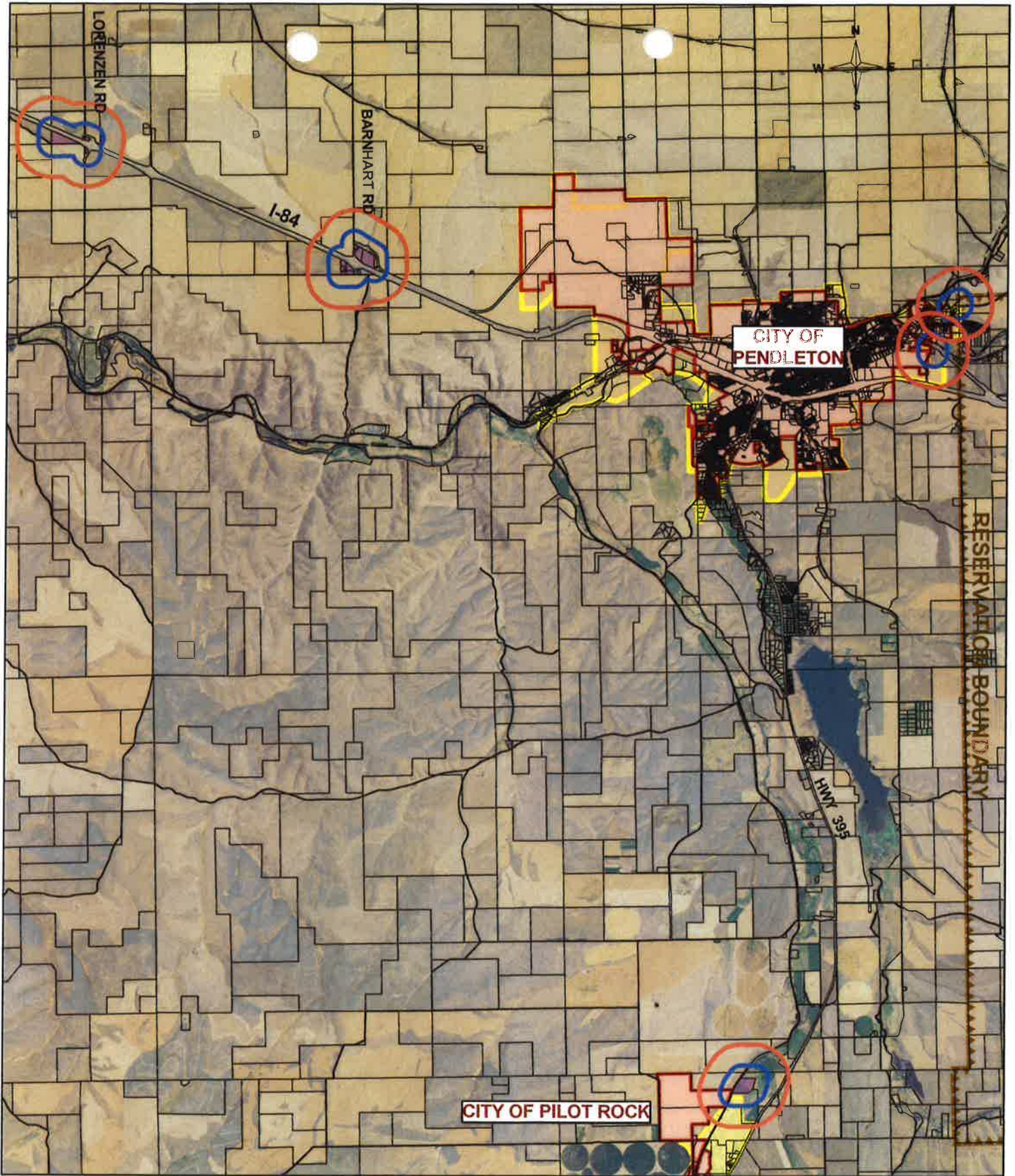
WESTLAND ROAD AREA



Legend

- Light Industrial Zones
- 1000' Buffer
- 1/2 Mile Buffer







2014 AERIAL PHOTO
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 Created by Julie Alford, Umatilla County Planning Dept
 DATE: 4/13/15



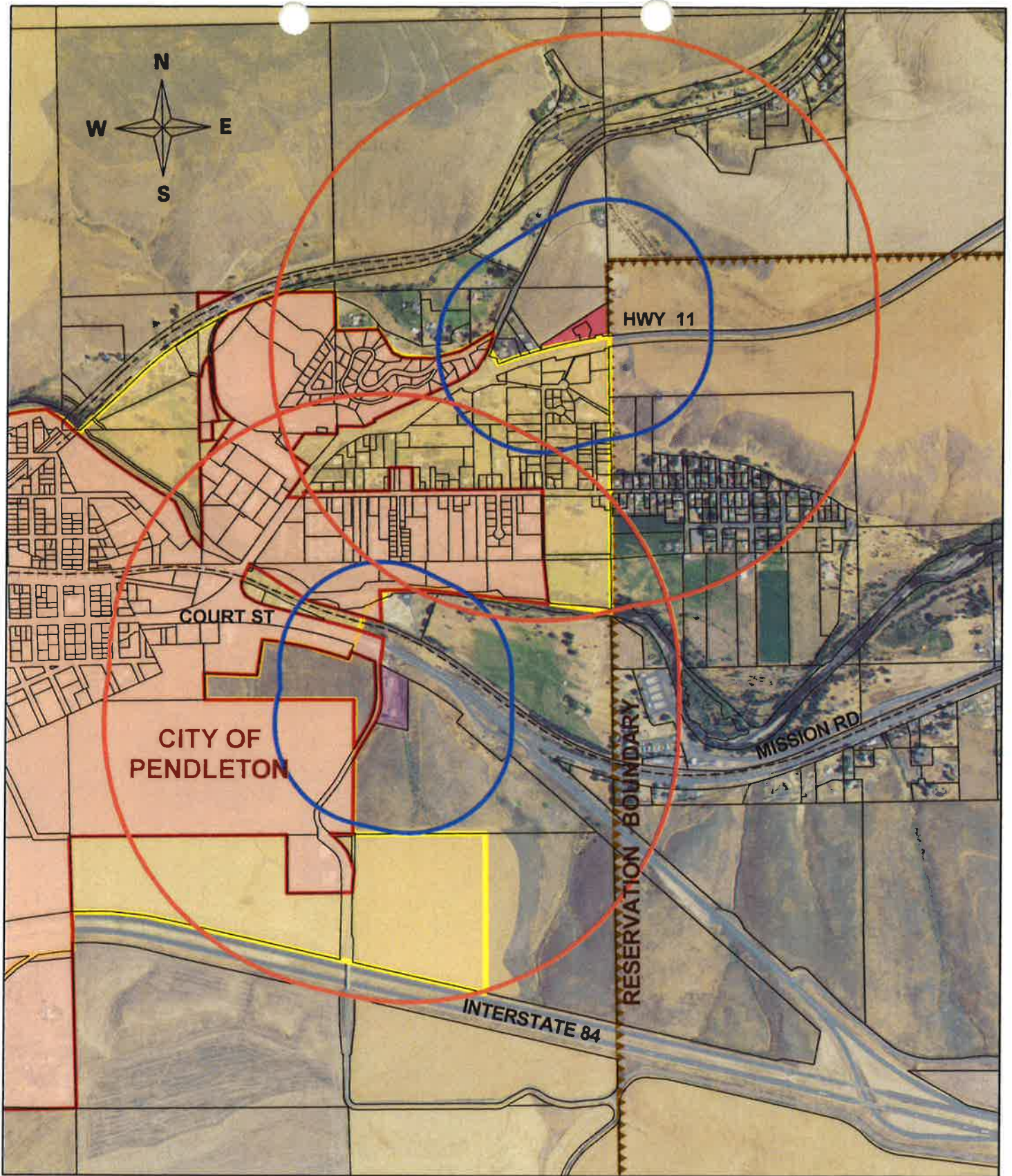
CENTRAL COUNTY COMMERCIAL & LIGHT INDUSTRIAL SITES

0 3000 6000 9000
Feet

Legend

- | | | | | | |
|--|-------------------|---|------------------------|---|-----------------|
|  | City Limits |  | Light Industrial Zones |  | 1/2 Mile Buffer |
|  | Urban Growth Area |  | Commercial Zones |  | 1000' Buffer |







2014 AERIAL PHOTO
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 Created by Julie Alford, Umatilla County Planning Dept.
 DATE: 4/13/15



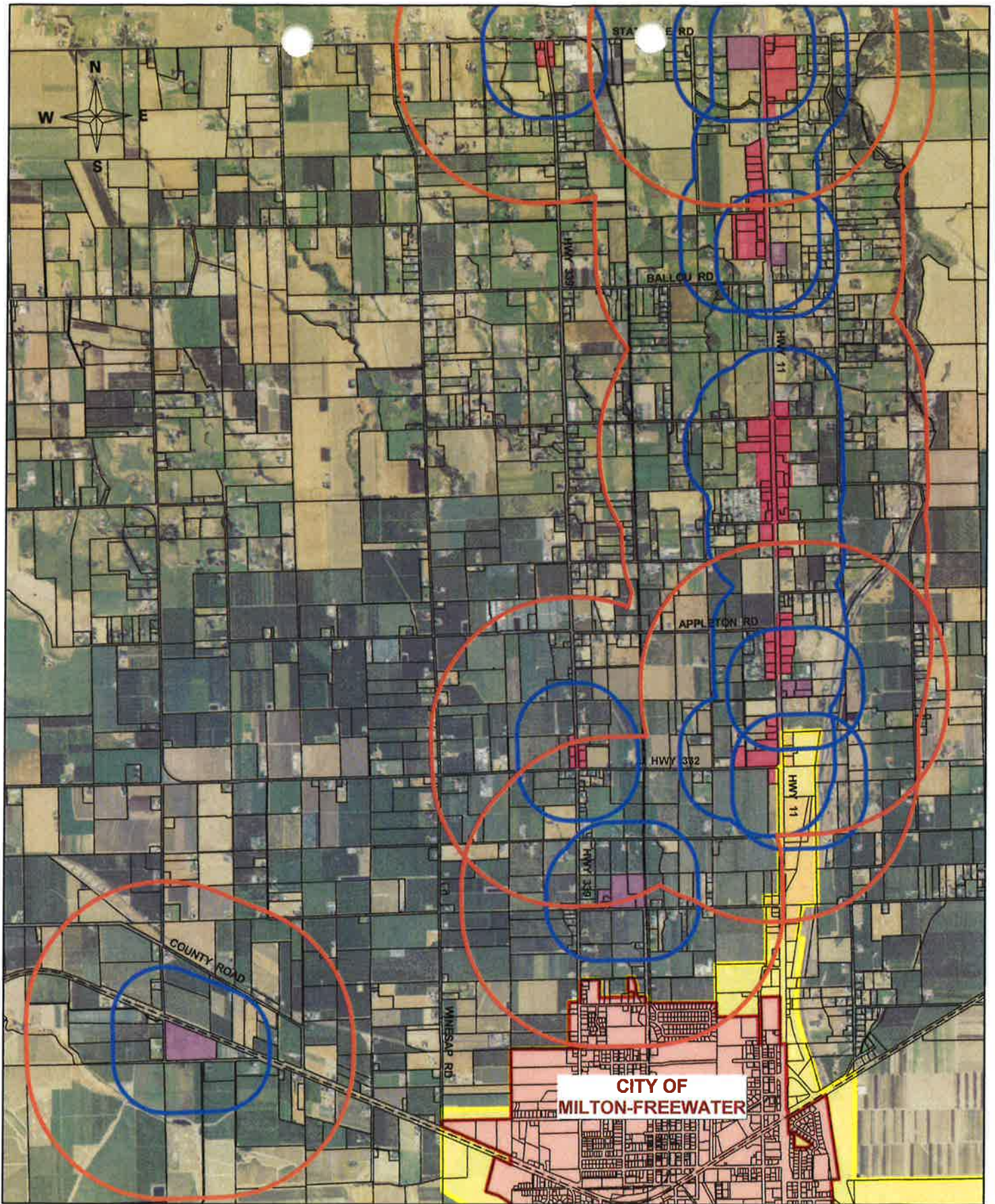
CENTRAL COUNTY DETAIL COMMERCIAL & LIGHT INDUSTRIAL SITES



Legend







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|---|-------------------|---|------------------------|---|-----------------|
|  | City Limits Area |  | Commercial Zones |  | 1/2 Mile Buffer |
|  | Urban Growth Area |  | Light Industrial Zones |  | 1000' Buffer |

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 DATE: 4/13/15



MILTON-FREEWATER VALLEY COMMERCIAL & LIGHT INDUSTRIAL SITES

Legend

- | | | | | | |
|--|-------------------|---|------------------------|---|-----------------|
|  | City Limits |  | Light Industrial Zones |  | 1/2 mile Buffer |
|  | Urban Growth Area |  | Commercial Zones |  | 1000' Buffer |



2014 AERIAL PHOTO
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Oregon Health Authority

Oregon Medical Marijuana Program: overview

This guide to the Oregon Medical Marijuana Program provides an overview of the program. Patients, growers, caregivers and interested parties can use it to understand how the program works, what it covers, its authority and rules.

Summary

The Oregon Medical Marijuana Program (OMMP) is a state program that registers patients to use medical marijuana in Oregon. OMMP is part of the Oregon Health Authority Public Health Division. The program's role is to administer the Oregon Medical Marijuana Act. Oregon voters approved the act in November 1998. Many states use Oregon's program as a model for their own medical marijuana initiatives and registration systems.

History

On Nov. 3, 1998, Oregon voters approved Ballot Measure 67, the Medical Marijuana Act, which allowed registered cardholders to legally use marijuana for medical reasons in this state within specified limits. The law also established a state-controlled permit system. The law went into effect in January 1999. It does the following:

- Gives legal protections to qualified patients;
- Requires a physician to write a statement of the patient's qualifying medical condition;

- Allows a caregiver to provide help; and
- Mandates an Oregon Health Authority registration system.

In May 1999, the Oregon Department of Human Services (DHS) implemented the Oregon Medical Marijuana Program (OMMP) by issuing the first OMMP registration cards. The program registers patients under the Oregon Medical Marijuana Act.

During the program's first year, from May 1, 1999, to May 1, 2000, the program served approximately 600 registered patients. By July 2014, the program reached more than 60,000 registered patients.

The Oregon Medical Marijuana Program is totally fee-supported. No state funds support the program.

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Oregon Medical Marijuana Program statistics

For more information.....

Glossary



- Seizures, including but not limited to those caused by epilepsy;
- Persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis.

Who may document qualifying medical conditions

The patient's attending physician must provide current written documentation of the patient's medical condition to the OMMP by completing the "Attending Physician's Statement Form."

ATTENDING PHYSICIAN'S STATEMENT FORM

Health

ATTENDING PHYSICIAN'S STATEMENT Oregon Medical Marijuana Program

Office use only: OBMS

Instructions: Please complete all sections of this form in order to comply with the registration requirements of the Oregon Medical Marijuana Act OR provide relevant portions of the patient's medical record containing all information required on this form. This does not constitute a prescription for marijuana.

If you need this document in an alternate format, please call (971) 673-1234

****This form must be received by the OMMP within 90 days of the physician's signature date.****

****You cannot renew more than three months prior to your current card expiration date.****

PLEASE TYPE OR PRINT LEGIBLY.

A PATIENT INFORMATION	
PATIENT NAME (LAST, FIRST, M.I.):	DATE OF BIRTH:
MAILING ADDRESS:	TELEPHONE #: ()
CITY, STATE AND ZIP CODE:	

B PHYSICIAN INFORMATION	
PHYSICIAN NAME:	MD/DO #:
MAILING ADDRESS:	TELEPHONE #: ()
CITY, STATE AND ZIP CODE:	

C PHYSICIAN'S STATEMENT	
Debilitating Medical Condition: Check all appropriate boxes:	
<input type="checkbox"/> 1. Malignant neoplasm (Cancer)	
<input type="checkbox"/> 2. Glaucoma	
<input type="checkbox"/> 3. Positive status for Human Immunodeficiency Virus (HIV) or Acquired Immune Deficiency Syndrome (AIDS)	
<input type="checkbox"/> 4. Agitation due to Alzheimer's Disease	
<input type="checkbox"/> 5. Post-Traumatic Stress Disorder (PTSD)	
6. A medical condition or treatment for a medical condition that produces for a specific patient one or more of the following (check all that apply):	
<input type="checkbox"/> a. Cachexia	
<input type="checkbox"/> b. Severe pain	
<input type="checkbox"/> c. Severe nausea	
<input type="checkbox"/> d. Seizures, including but not limited to seizures caused by epilepsy	
<input type="checkbox"/> e. Persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis.	
Comments:	
I hereby certify that I am a physician duly licensed to practice medicine in Oregon under ORS Chapter 677. I have primary responsibility for the care and treatment of the above-named patient. The above-named patient has been diagnosed with the above debilitating medical condition(s). Marijuana used medically may mitigate the symptoms or effects of this patient's condition. This is not a prescription for the use of medical marijuana.	
PHYSICIAN'S SIGNATURE:	DATE:

PATIENT MAIL: ATTENDING PHYSICIAN'S STATEMENT WITH APPLICATION TO: OHA/OMMP
PO Box 14450
Portland, OR 97293-0450

APS 2014

The Oregon Medical Marijuana Act

Limits of protection

The OMMA protects medical marijuana users who comply with the law's requirements from state prosecution. They cannot be prosecuted for producing, possessing or delivering marijuana as a controlled substance.

However, federal law contradicts state law. Thus, the OMMA **does not** protect marijuana plants from being seized or people from being prosecuted if the federal government chooses to take action against registered cardholders under the Federal Controlled Substances Act.

Qualifying medical conditions

Under the OMMA, medical marijuana can be used for these medical conditions:

- Cancer;
- Glaucoma;
- Agitation due to Alzheimer's disease;
- HIV/AIDS;
- Post-traumatic stress disorder (PTSD).

Medical marijuana can also be used for any other medical condition or treatment that produces one or more of the following:

- Cachexia (a weight-loss disease that can be caused by HIV or cancer);
- Severe pain;
- Severe nausea;

registry identification cardholder for five years from the conviction.

Growing and possession

- A grower may produce marijuana for up to four medical marijuana patients at the same time.
- A grower may grow up to six mature plants and 18 seedlings or starts at a registered growsite for each patient who gets marijuana from the grower.
 - » **Seedling or start** must meet the following criteria or it is considered a mature plant:
 - No flowers;
 - Less than 12 inches in height;
 - Less than 12 inches in diameter.
 - » **Mature plant** means a marijuana plant that does not fall within the definition of a seedling or a start.
 - » **Immature plant** has the same meaning as seedling or start.
- A patient and his or her grower and caregiver may possess a **combined total** of up to 24 ounces of usable marijuana.
- All usable marijuana, plants, seedlings and starts belong to the patient. The grower must return all marijuana to the patient whenever the patient asks for them.
- A patient may reimburse his or her grower for the cost of supplies and utilities associated



The attending physician must also state that the medical use of marijuana may relieve the symptoms or effects of the patient's medical condition.

The attending physician must be a doctor of medicine (MD) or doctor of osteopathy (DO) licensed to practice medicine in Oregon.

The OMMP verifies with the Oregon Medical Board that each patient's attending physician has a valid license to practice medicine in Oregon. Naturopaths, chiropractors and nurse practitioners **cannot** be attending physicians.

Who may act as a caregiver

A caregiver is an individual 18 years of age or older who is the main person managing the well-being of a patient.

The patient does not have to have a caregiver to apply for the OMMP. However, a patient who has a caregiver must include the caregiver's name and address on the application.

A patient may have only one caregiver at any given time.

Who may act as a grower

- A patient does not have to designate a grower and growsite on the form.
- A grower must be 18 years or older.
- The OMMP will do a criminal records check of any person submitted as a grower.
- A person convicted of a Class A or Class B felony for the manufacture or delivery of a controlled substance cannot get a marijuana growsite registration card for five years from being convicted. That person also cannot produce marijuana for a

The Oregon Medical Marijuana Program

Services the OMMP provides

The Oregon Medical Marijuana Program:

- Reviews applications to issue medical marijuana cards to:
 - » Patients with qualifying medical conditions; and
 - » Eligible caregivers and growers;
- Maintains records that comply with state confidentiality laws;
- Provides administrative support to the Advisory Committee on Medical Marijuana (ACMM), whose members are appointed by the Oregon Health Authority (OHA) director;
- Educates patients, caregivers and growers about the Oregon Medical Marijuana Act, program policies and processes; and
- Updates the OMMP database for law enforcement to have an up-to-date listing of valid OMMP cardholders and locations of valid growsites.

What the OMMP DOES NOT do

- **The OMMP does not have a physician referral list.** However, any doctor of medicine (MD) or doctor of osteopathy (DO) licensed in Oregon can recommend a patient for the program.
- **The OMMP does not give legal advice.** Those with questions about the OMMA should consult a private attorney.
- **The OMMP does not conduct medical research or**

with producing medical marijuana. The patient may not reimburse the grower for any other costs associated with producing marijuana for the patient, including the cost of labor. A grower must always display a growsite registration card for each patient who receives marijuana from the grower.

- A grower must possess his or her OMMP identification card when transporting marijuana.

Medical marijuana cannot be prescribed

Pharmacies can only give out medications that a physician prescribes. The federal government classifies marijuana as a Schedule I narcotic, which means a **physician cannot prescribe it.**

Cardholders are not immune from criminal laws

Having a medical marijuana card does not allow cardholders to engage in illegal activity. Law limits cardholders as follows. You **cannot:**

- Give medical marijuana to a non-OMMP cardholder;
- Sell medical marijuana, even to another OMMP cardholder;
- Use medical marijuana in a public place or in public view;
- Drive under the influence of marijuana; and
- Manufacture or produce marijuana anywhere other than at the growsite address you list on your application.

Application process

Patients

- In order for an application to be considered complete, the patient must submit the following:
 - » An application form that the patient has signed and dated;
 - » Copies of legible, current and valid U.S. state or federally issued photographic identification. This ID must include the last name, first name and date of birth of the patient

Samples of forms of identification



Passport



Military ID



Driver's license

address the health effects of using medical marijuana.

This is outside the program's authority.

- **The OMMP cannot find a caregiver or grower for a patient.** The OMMP does not have a referral list for people who want to be caregivers or growers for patients.
- **The OMMP does not have information about where to get the seeds or plants to start growing medical marijuana.**

Reciprocity with other states

Oregon cardholders are only protected from prosecution in another state if that state legally accepts Oregon's medical marijuana card. Medical marijuana programs vary by state. Contact the state you are traveling to for information on its laws.

A cardholder who possesses, produces or delivers medical marijuana in another state without a medical marijuana card from that state acts at his or her own risk.

A cardholder should contact the state he or she is traveling to for information about its laws.

Medical conditions and fees

- The patient must attach an "Attending Physician's Statement Form" (see page 4 for sample) to the application. It must include current documentation of the patient's medical condition and that the use of marijuana may relieve its symptoms or effects.
- The patient must include with the application a money order or personal check for the non-refundable application fee.
- Patients who choose to designate growers other than themselves must include a non-refundable grow-site registration fee in addition to the application fee.

A patient must demonstrate current receipt of one of the following programs to qualify for a reduced application fee:

- » The Oregon Health Plan (OHP);
 - » Oregon Supplemental Nutrition Assistance Program (SNAP);
 - » Supplemental Security Income (SSI) benefits; or
 - » Service-connected compensation from the Veterans Administration based on the VA's finding of 100% service-connected disability **OR** receipt of a VA needs-based pension.
- The patient must provide the following information for one of these programs to qualify for a reduced fee:
 - » OHP— a copy of the patient's current eligibility statement;
 - » VA — proof that the patient receives a service-connected compensation from the VA. This is based on a finding from the VA of 100% service-connected disability **OR** receipt of a needs-based VA pension;

as well as of the grower and caregiver, as applicable.

- » The following are acceptable forms of U.S. state or federally issued photographic identification. They include but are not limited to:
 - Driver's license;
 - State identification card;
 - Passport; or
 - Military identification card.
- A patient must register each year to stay in the program. The patient must submit an application before his or her current card expires.

Growers and growsites

- A patient who decides to grow for himself or herself or designates a grower may register a marijuana growsite. OMMP will register only one growsite per patient. The growsites must be in Oregon. A patient registering a growsite must complete **both** the **grower** and **growsite** sections on his or her application, including:
 - » Name of the grower;
 - » Date of birth of the grower;
 - » Physical address of the marijuana growsite;
 - » Mailing address of the grower; and
 - » U.S. state or federally issued photographic identification.

Administering medical marijuana at a licensed health care facility

A health care professional who is licensed to administer pharmaceuticals may administer medical marijuana to a patient who:

- Has a registry identification card; and
- Resides in a licensed health care facility.

Medical marijuana:

- Cannot be dispensed in a public place;
- Cannot be dispensed in the presence of a person less than 18 years old;
- If smoked, must be in an area that is well ventilated;

Licensed health care professionals are not required to administer medical marijuana or set up a space for its administration.

- » SSI benefits — copy of the patient's current SSI benefit statement;
- » SNAP benefits — current active status in Oregon Food Stamp Management Information System and have proof of current food stamp benefits.

Making changes

- A patient is required to submit an OMMP "Change Request Form" if any of the following changes:
 - » Address,
 - » Caregiver,
 - » Grower, or
 - » Growsite.
- A patient must notify the OMMP within 30 calendar days of the change(s). Patients can mail the form or deliver it to the OMMP drop box. The program does not accept registration information changes by fax or over the telephone.
- OMMP will charge a non-refundable card replacement fee if a patient adds or updates a designated caregiver, grower or growsite, or the registration card has been lost or stolen.

No fee payment is required to:

- » Change mailing addresses;
 - » Remove a caregiver;
 - » Remove a grower/growsite.
- The OMMP recommends that the patient or cardholder keep copies of all change forms submitted to the OMMP when moving plants to a new growsite.

For more information

Oregon Medical Marijuana Program

Please visit our website for more Oregon Medical Marijuana Program information. You will find frequently asked questions, basic facts, statistics, forms, application and fee information, and more.

www.oregonhealth.org/ommp

Advisory Committee on Medical Marijuana (ACMM)

The ACMM advises the OMMP on administrative aspects of the program, reviews proposed rule changes and gives annual feedback on fees.

public.health.oregon.gov/DiseasesConditions/ChronicDisease/MedicalMarijuanaProgram/Pages/acmm.aspx

Current rules and statutes

public.health.oregon.gov/DiseasesConditions/ChronicDisease/MedicalMarijuanaProgram/Pages/legal.aspx

Medical Marijuana Dispensary Program

This program licenses and regulates facilities that distribute medical marijuana.

mmj.oregon.gov

Oregon Medical Marijuana Program Statistics

The program tracks how many patients currently hold cards and the number of new applications. This information is updated and posted every quarter on the OMMP website at www.oregonhealth.org/ommp.

The Oregon Health Authority (OHA) is a leader in the effort to innovate for quality and affordable health care in Oregon by putting the care back in health care, improving the health of Oregonians, and working to lower the cost of care so it is affordable and accessible to everyone. A nine-member, citizen-led group called the Oregon Health Policy Board oversees the Oregon Health Authority. To learn more about OHA, visit www.oregon.gov/OHA. Connect with OHA at www.facebook.com/OregonHealthAuthority and www.twitter.com/OHAOregon.

apartment houses and hotels not constituting rooms or apartments designed for actual residence. It also includes highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

Seedling or start: a marijuana plant that is less than 12 inches in height and diameter and has no flowers. A seedling or start that does not meet all these criteria is a mature plant.

Usable marijuana: the dried leaves and flowers of the plant Cannabis family Moraceae. It also includes any mixture or preparation of Cannabis for medical use. “Usable marijuana” does not include the seeds, stalks and roots of the plant.

Glossary

Attending physician: a licensed doctor of medicine (MD) or doctor of osteopathy (DO), who has primary responsibility for the care and treatment of a person diagnosed with a medical condition.

Caregiver: an individual 18 years of age or older who manages the well-being of a person with a medical condition. The caregiver is designated on that person's application for a registry identification card or in other written notification to the Oregon Medical Marijuana Program. "Designated primary caregiver" does not include the person's attending physician.

Grower (person responsible for a marijuana growsite): a person selected by a patient to produce medical marijuana for the patient. The Oregon Medical Marijuana Program has registered the grower for this purpose.

Growsite: The physical address where a patient's marijuana is produced.

Mature plant: a marijuana plant is not a seedling or a start.

Patient: a person who the attending physician has diagnosed with a medical condition. Using medical marijuana may relieve the symptoms or effects of the person's medical condition. The Oregon Medical Marijuana Program has issued the person a patient registry identification card.

Public place: A place that the public can access. It includes, but is not limited to, hallways, lobbies and other parts of

The logo for the Oregon Health Authority. It features the word "Oregon" in a small, white, serif font above the word "Health" in a large, white, serif font. Below "Health" is the word "Authority" in a smaller, white, serif font. The text is set against a dark blue background with faint, concentric circular patterns. A thick, curved band of green and orange runs across the bottom right of the page, partially overlapping the logo.

Oregon Health Authority

This document can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request this publication in another format or language, contact Oregon Medical Marijuana Program (OMMP) at 971-673-1234 or 971-673-0372 for TTY.

Who may act as a grower?

- A patient may grow for his or herself or designate an individual 18 years or older to act as his or her grower.
- The OMMP conducts a criminal background check on all designated growers.
- If a grower has been convicted of felony violating ORS 475.840 through 475.920 on or after January 1, 2006, that person is prohibited from growing marijuana for a patient for five years from the date of conviction for the first offense.
- Individuals with more than one conviction are permanently prohibited from growing.

Do I have to list a grower and growsite address on my application?

Only if you are growing your own medical marijuana or are designating another person to grow medical marijuana for you.

- Patients growing medical marijuana or designating a grower are required to provide the OMMP with the growsite address.
- Only one growsite address may be registered per patient.
- Growsites must be a physical address located in Oregon.



LEAGUE OF OREGON CITIES

**LOCAL GOVERNMENT
REGULATION OF
MEDICAL MARIJUANA
IN OREGON**

MARCH 2015



Published by the League of
Oregon Cities

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Introduction and A Word of Caution

The League of Oregon Cities (League) has prepared this guide to assist cities in evaluating local needs and issues regarding medical marijuana so that city councils can find local solutions that are in the best interests of their community. The League does not take a position on which choices a city council should make. Rather, part of the League's mission is to protect the home rule authority of cities and their governing bodies to make local decisions and to assist city councils in implementing the decisions they make, whatever those decisions might be.

This guide discusses only the local regulation of medical marijuana. Although Oregon voters adopted Ballot Measure 91 in November 2014 which legalized personal possession and the growing, processing, delivery and sale of non-medical marijuana, at the time this document was published, the Legislature was considering refinements to that measure, and the Oregon Liquor Control Commission (OLCC) had yet to issue rules implementing the measure. In fact, the OLCC is not required to begin accepting applications for non-medical marijuana production, processing, wholesale and retail licenses until January 2016. Just as the gusts off the Pacific Ocean can alter the shape and course of the Oregon sand dunes, so too the political and legal winds could end up reshaping the contours of Measure 91 and the degree to which local governments can regulate non-medical marijuana. Consequently, given the potential for that area of the law to change, this guide does not address local regulation of non-medical marijuana. Once the Legislature adjourns and the OLCC issues its rules, the League anticipates publishing separate guidance for cities that desire to regulate non-medical marijuana within their communities.

If the law relating to non-medical marijuana can be compared to a shifting sand dune, then it is fitting to say that the legal landscape is only slightly more stable with regard to medical marijuana. To be certain, the law with regard to local government regulation of medical marijuana is complex because it involves the interplay of state and federal law, and the law continues to evolve. At press time, there were several court cases pending regarding the legal authority of local governments to regulate, up to and including prohibiting, the operation of medical marijuana facilities. As noted above, there remains the possibility that the Legislature might pass legislation affecting a city's authority to regulate medical marijuana facilities. Consequently, the League will endeavor to update its members as new laws are adopted and court decisions are issued.

As a final word of caution, city councils considering regulating or prohibiting medical marijuana facilities should not rely solely on this guide or the resources contained within it. **This guide is not a substitute for legal advice.** Any city council considering any form of regulation of marijuana should consult with its city attorney regarding the advantages, disadvantages, risks and limitations of any given approach. Legal counsel can also assist a city in preparing an ordinance that is consistent with existing ordinances and with a city's charter, and advise on what process is needed to adopt the ordinance. The sample ordinance provisions included in this guide are intended to be a starting point, not an ending point, for any jurisdiction considering regulating medical marijuana facilities.

Home Rule in Oregon

Any discussion of a city's options for regulating a subject also regulated by state law must begin with a discussion of the home rule provisions of the Oregon Constitution from which cities in Oregon derive their legal authority. Home rule is the power of a local government to set up its own system of governance and gives that local government the authority to adopt local ordinances without having to obtain permission from the state.

The concept of home rule stands in contrast to a corollary principle known as Dillon's Rule, which holds that municipal governments may engage only in activities expressly allowed by the state because municipal governments derive their authority and existence from the state.¹ Under Dillon's Rule, if there is a reasonable doubt about whether a power has been conferred to a local government, then the power has not been conferred. Although many states follow Dillon's Rule, Oregon does not.

Instead, city governments in Oregon derive home rule authority through the adoption of a home rule charter by the voters of that community pursuant to Article XI, section 2, of the Oregon Constitution, which was added in 1906 by the people's initiative. Article XI, section 2, provides, in part, that:

“The Legislative Assembly shall not enact, amend or repeal any charter or act of incorporation of any municipality, city or town. The legal voters of every city and town are hereby granted power to enact and amend their municipal charter, subject to the Constitution and criminal laws of the State of Oregon.”

A home rule charter operates like a state constitution in that it vests all government power in the governing body of a municipality, except as expressly stated in that charter, or preempted by state or federal law. According to the League's records, all of Oregon's 242 incorporated cities have adopted home rule charters.

The leading court case interpreting Oregon's home rule amendment is *La Grande/Astoria v. PERB*, 281 Or 137, 148-49, 576 P2d 1204, *aff'd on reh'g*, 284 Or 173, 586 P2d 765 (1978). In that case, the Oregon Supreme Court said that home rule municipalities have authority to enact substantive policies, even in an area also regulated by state statute, as long as the local enactment is not “incompatible” with state law, “either because both cannot operate concurrently or because the Legislature meant its law to be exclusive.” In addition, the court said that where there is a local enactment and state enactment on the same subject, the courts should attempt to harmonize state statutes and local regulations whenever possible.²

¹ See John F. Dillon, 1 *The Law of Municipal Corporations* § 9b, 93 (2d ed 1873).

² Criminal enactments are treated differently. Local criminal ordinances are presumed invalid, and that presumption cannot be overcome if the local enactment prohibits what state criminal law allows or allows what state criminal law prohibits. See *City of Portland v. Dollarhide*, 300 Or 490, 501, 714 P2d 220 (1986). Consequently, as discussed later in this guide, the Supreme Court's case law is clear that a local government may not recriminalize conduct for which state law provides criminal immunity. See *City of Portland v. Jackson*, 316 Or 143, 147-48, 850 P2d 1093 (1993) (explaining how to determine whether a state law permits what an ordinance prohibits, including where the Legislature expressly permits specified conduct).

In a subsequent case, the Oregon Supreme Court directed courts to presume that the state did not intend to displace a local ordinance in the absence of an apparent and unambiguous intent to do so.³ Along the same lines, the Oregon Court of Appeals has explained, “[a] local ordinance is not incompatible with state law simply because it imposes greater requirements than does the state, nor because the ordinance and state law deal with different aspects of the same subject.”⁴

Where the Legislature’s intent to preempt local governments is not express and where the local and state law can operate concurrently, there is no preemption. As such, the Oregon Supreme Court has concluded that generally a negative inference that can be drawn from a statute is insufficient to preempt a local government’s home rule authority.⁵ For example, where legislation “authorizes” a local government to regulate in a particular manner, a court will not read into that legislation that the specific action authorized is to the exclusion of other regulatory alternatives, unless the Legislature makes it clear that the authorized regulatory form is to be the exclusive means of regulating.

³ See, e.g., *State ex rel Haley v. City of Troutdale*, 281 Or 203, 210-11, 576 P2d 1238 (1978) (finding no manifest legislative intent to preempt local provisions that supplemented the state building code with more stringent restrictions).

⁴ *Thunderbird Mobile Club v. City of Wilsonville*, 234 Or App 457, 474, 228 P3d 650, rev den, 348 Or 524 (2010).

⁵ *Gunderson, LLC v. City of Portland*, 352 Or 648, 662, 290 P3d 803 (2012) (explaining that even if a preemption based on a negative inference is plausible, if it is not the only inference that is plausible, it is “insufficient to constitute the unambiguous expression of preemptive intention” required under home rule cases).

An Overview of Oregon's Medical Marijuana Act

On November 3, 1998, Oregon voters approved Ballot Measure 67, the Oregon Medical Marijuana Act (OMMA) (codified at ORS 475.300 - ORS 475.346), which allowed medical use of marijuana in Oregon within specified limits for persons suffering from a qualifying debilitating health condition. Specifically, the act:

- Requires a physician-written statement of a patient's qualifying debilitating medical condition;
- Directs the Oregon Health Authority to establish a registration system for the issuance of what is commonly referred to as a medical marijuana card; and
- Provides protection from state prosecution for qualified patients, their caregivers and identified growers.

The Legislature subsequently amended the OMMA to expand the list of qualifying debilitating health conditions and to increase the marijuana possession limits. As discussed below, in 2013, the Legislature again amended the OMMA to provide for medical marijuana dispensaries.

Federal Law

It is important to note that marijuana remains a Schedule I controlled substance under the federal Controlled Substances Act (CSA). Schedule I substances are those for which the federal government has made the following findings:

- The drug or other substance has a high potential for abuse;
- The drug or other substance has no currently accepted medical use in treatment in the United States; and
- There is a lack of accepted safety for use of the drug or other substance under medical supervision.

The OMMA does not, and could not, give immunity from federal prosecution. Consequently, the OMMA does not protect marijuana plants from being seized or people from being prosecuted if the federal government chooses to take action under the CSA against registered cardholders. Similarly, cities cannot provide immunity from federal prosecution.

Growing and Possession

Patients may grow for themselves or identify a grower. A patient and his or her grower and caregiver may possess a combined total of up to 24 ounces (1.5 pounds) of usable marijuana. A grower may produce marijuana for up to four medical marijuana patients at the same time. A grower may grow up to six mature plants and 18 seedlings or starts (also known as immature plants)⁶ at a registered growsite for each patient who gets marijuana from the grower. All usable

⁶ A seedling or start must meet the following criteria or it is considered a mature plant: no flowers; less than 12 inches in height; less than 12 inches in diameter. A mature plant is a marijuana plant that does not fall within the definition of a seedling or a start.

marijuana, plants, seedlings and starts belong to the patient. The grower must return all marijuana to the patient whenever the patient asks for it.

A grower must be 18 years or older and cannot have been convicted within the last five years of a Class A or Class B felony for the manufacture or delivery of a controlled substance. There are no other limitations on growers. Consequently, a patient (who has identified another grower) may also be a grower for up to four other patients. Those patients may likewise be a grower for up to four other patients each, and those patients can each grow for four other patients, and so on and so on. Thus it is possible under the OMMA to build an exponentially growing pyramid of growers who are also patients with their own identified growers. Doing so is a process commonly referred to as card stacking and results in very large medical marijuana grow operations.

A patient may reimburse his or her grower for the cost of supplies and utilities associated with producing medical marijuana. The patient may not reimburse the grower for any other costs associated with producing marijuana for the patient, including the cost of labor. A grower must always display a growsite registration card for each patient who receives marijuana from the grower. A grower must possess his or her OMMA identification card when transporting marijuana.

Limitations

The state criminal immunity provided to a medical marijuana cardholder is not absolute. Cardholders can lose immunity from state prosecution if they:

- Give medical marijuana to a non-OMMA cardholder;
- Sell medical marijuana, even to another cardholder, unless that sale is pursuant to Oregon's dispensary laws discussed below;
- Grow, deliver or consume medical marijuana in a public place or in public view;
- Drive under the influence of marijuana; or
- Manufacture or produce marijuana anywhere other than at the growsite address listed on the patient's application.

Dispensaries

The original OMMA did not envision a dispensary system. Rather, the OMMA was built on the assumption and foundation that patients would grow marijuana for themselves or identify someone to grow for them. However, given card stacking and the quantities allowed, growers were soon producing more marijuana than their patients needed. The marijuana that exceeded what patients needed is commonly referred to as "excess marijuana" and a market soon developed in which other patients sought to obtain the excess marijuana from growers who were not identified as those patients' growers. Dispensaries grew out of those demands in order to connect patients with the growers of excess marijuana.

Because the original OMMA allowed transfer of marijuana only between a patient and his or her identified grower, soon-to-be dispensary operators and others sought legislation that would

create a system whereby a registered facility could lawfully purchase excess marijuana from a grower and then sell it to a patient cardholder or their caregiver. Those efforts would eventually lead to the enactment of House Bill (HB) 3460 by the Oregon Legislature in 2013.

HB 3460 provided state criminal immunity to any registered medical marijuana dispensary (which the law calls a medical marijuana facility) that transfers marijuana between any identified grower and any qualified patient or caregiver. The bill required the Oregon Health Authority to develop and implement a process to register medical marijuana facilities. The bill also set out certain restrictions. Specifically, HB 3460 provided that registered facilities must be located only on property zoned for agricultural, commercial, industrial or mixed uses (no residential zones). The bill also prohibited a medical marijuana facility from locating within 1,000 feet of another registered facility, within 1,000 feet of a school, or at the same location as a grow site. Finally, HB 3460 also required background checks of dispensary owners (but not their employees), certain security requirements, and testing of medical marijuana.

Although HB 3460 established a registration system, thereby allowing local governments to know where dispensaries were operating, the bill did not completely address a number of concerns that local governments had relating to the dispensing of medical marijuana. Specifically, the law did not:

- Regulate or license marijuana testers;
- Regulate or license growers;
- Regulate product types, including edibles and products that might be enticing to children;
- Address product labeling;
- Address whether dispensaries could locate in places where children congregate (such as day care centers, parks, libraries, etc.); and
- Require background checks for dispensary employees.

The Oregon Health Authority adopted interim rules implementing HB 3460 and has since amended the rules several times. Those rules are codified at OAR 333-008-0000 to OAR 333-008-1400.

Legislation on Local Regulation

Based on the gaps left open by HB 3460, and because the bill was neither expressly preemptive nor did it mandate local governments to accept dispensaries, several local governments began considering ordinances that regulated or prohibited the operation of medical marijuana dispensaries in their communities.

In September 2013, the Legislature adopted and the governor signed into law Senate Bill (SB) 863, commonly known as the genetically modified organism, or GMO bill. SB 863 was in response to a local government's regulation of genetically modified crops. The bill was intended to preempt all local governments from regulating whether or not genetically modified organisms could be grown, processed or sold within their jurisdictions so that the state could create a

uniform statewide standard. SB 863, however, does not use the term genetically modified organism and its preemption was written broadly. Specifically, SB 863 provides:

“ . . . a local government may not enact or enforce a local law or measure, including but not limited to an ordinance, regulation, control area or quarantine, to inhibit or prevent the production or use of agricultural seed, flower seed, nursery seed or vegetable seed or products of agricultural seed, flower seed, nursery seed or vegetable seed.”

Based on that broad preemption, some people asserted that SB 863's preemption extended to medical marijuana, which they believed qualified as a product of an “agricultural seed” or in the alternative “nursery seed.” Other people also asserted that, despite the wording of HB 3460, its provisions were also preemptive. In response, in 2014 the Legislature adopted SB 1531, which accomplished two things. First, SB 1531 stated, without deciding, that if SB 863's preemptions reached medical marijuana, local governments could nonetheless adopt reasonable time, place and manner regulations. Second, SB 1531 stated, without deciding, that if HB 3460's provisions were preemptive, a local government could impose a one-year moratorium on the operation of a medical marijuana facility if the moratorium was adopted before May 1, 2014 and a copy was filed with the Oregon Health Authority.

SB 1531 also did something local governments could not do under their home rule authority. The bill removed immunity from state prosecution for any person operating a dispensary in a jurisdiction with a moratorium adopted in accordance with SB 1531's provisions.⁷

Because SB 1531's moratorium provisions were limited to one year, expiring on May 1, 2015, local governments are and have been considering what options are available to them with respect to the regulation of medical marijuana dispensaries. The following section explores those options as they currently exist under Oregon law.

⁷ As noted above, cities in Oregon that have obtained home rule authority through the adoption of a home rule charter do so subject to the criminal laws of the state of Oregon. As such, a city may not allow that which state criminal law expressly prohibits, nor prohibit that which state criminal law expressly allows. As applied to medical marijuana dispensaries, that means that a city that enacts a general prohibition on the operation of a medical marijuana dispensary may not enforce that prohibition through its criminal ordinances. SB 1531, however, gave cities the option to adopt a one-year moratorium and obtain the benefit of being able to enforce that moratorium through a criminal prosecution.

Local Government Options for Regulation of Medical Marijuana

Under Oregon's constitutional home rule provision and the case law interpreting it, the League believes that local governments retain local control over all issues relating to medical marijuana, provided however that local governments may not recriminalize conduct for which the OMMA provides criminal immunity from state prosecution or allow conduct that remains unlawful under state law. As explained below, this means that unless a court declares otherwise or the Legislature adopts preemptive legislation, the League believes that cities that desire to do so currently have the authority to ban medical marijuana operations within their jurisdictions, or in the alternative to regulate those operations, including imposing local taxes.

However, cities that decide to prohibit or tax medical marijuana operations should understand that there are others in the state that disagree with the League's conclusions. As such, cities considering banning or taxing medical marijuana operations should consult with their legal counsel on the risks of litigation and the likelihood of prevailing. Those cities should also carefully monitor court decisions as these issues make their way through the Oregon appellate courts.

Before adopting regulations, another consideration for a city is whether existing state law would effectively preclude a person from obtaining a state license from the Oregon Health Authority to operate a medical marijuana facility. It is important to keep in mind that HB 3460 does not allow a dispensary to operate within 1,000 feet of a school or locate in a residential zone, or by Oregon Health Authority rule, another zone that does not allow retail activity. Consequently, it may well be that state law effectively forecloses any possibility of a medical marijuana facility operating in smaller communities.

Taxation

Nothing in the OMMA, HB 3460, nor any other legislation, expressly or by operation of its provisions, precludes a local government from imposing a tax on medical marijuana operations. Consequently, recognizing that the use of medical marijuana can increase demands on public safety resources, several cities have elected to impose a medical marijuana tax, including Ashland, Lake Oswego, West Linn and Wilsonville. A city desiring to impose such a tax can look to those communities for sample ordinance wording.

Moratoriums, Bans and Other Prohibitions

As noted above, it is the League's position that local governments that desire to ban the operation of medical marijuana dispensaries may do so. Although some people believe that SB 1531 limits local governments to only time, place and manner restrictions, thus far at least one Oregon court that has looked at this issue has concluded that HB 3460 is not preemptive, that

SB 863's preemptions do not reach medical marijuana, and that, as such, SB 1531's time, place and manner provisions do not provide the only option available to local governments.⁸

A city that desires to prohibit medical marijuana operations has several options to implement that prohibition. Specifically, a city might do so through a direct ban, amendments to the land use code, or restrictions on the issuance of a business license or other permit. Each of those options is briefly discussed below.

Direct Ban

A direct ban is one in which the city expressly prohibits the operation of a medical marijuana facility. The city of Jacksonville, Oregon has adopted an ordinance with that type of ban, and jurisdictions considering a direct ban might look to the Jacksonville ordinance for sample wording. It is important to note, however, that under Oregon's Home Rule provisions and the case law interpreting them, a city that adopts this type of ban likely would not be able to bring a local criminal action against a person violating the ban. Consequently, cities that desire to enact a direct ban should work closely with their legal counsel to determine what enforcement mechanisms could lawfully be put in place.

Land Use Code

Cities that desire to prohibit medical marijuana operations might also do so through amendments to their land use codes. Before considering this option, cities should work with their legal counsel to first determine if the wording of their zoning codes already prohibits medical marijuana operations, and if not, to identify the appropriate land use procedures and the amount of time it would take to comply with them. If the wording in a city's zoning codes does not prohibit medical marijuana operations, the city has different options. One option is to add wording such as "an allowed use is one that does not violate local, state or federal law" to the city's zoning code. Because marijuana remains a Schedule I controlled substance under the federal CSA, the effect of that wording would be to preclude medical marijuana operations. Cities that adopt a prohibition that references federal law would then rely on existing mechanisms in their ordinances for dealing with zoning violations.⁹

⁸ See *City of Cave Junction v. State of Oregon*, Josephine County Circuit Court Case #14CV0588, currently on appeal to the Oregon Court of Appeals. Cities considering a ban and their legal counsel may obtain more information on that court case and read the League's legal briefs on the A to Z page on the League's website (www.orcities.org), under medical marijuana.

⁹ Under existing law, the League believes it is clear that a city may enforce civil regulations of general applicability (such as zoning codes, business licenses and the like) through the imposition of civil penalties. Although a city likely cannot directly recriminalize conduct allowed under state criminal law, it is a different legal question whether a city may impose criminal penalties for violating a requirement of general applicability when the conduct at issue is otherwise immune from prosecution under state law (i.e. whether a city may impose criminal penalties for operation of a medical marijuana dispensary in violation of a city's land use code). *Cf. State v. Babson*, 355 Or 383, 326 P3d 559 (2014) (explaining that generally applicable, facially neutral law, such as a rule prohibiting use of public property during certain hours, may be valid even if it burdens expressive conduct otherwise protected under Article I, section 8, of the Oregon Constitution). Consequently, a city should work closely with its city attorney before imposing criminal penalties against a person operating a medical marijuana facility in violation of a local civil code, such as a zoning, business license or development code.

Business License Ordinance

Cities could also impose a ban through a local business license ordinance that provides that it is unlawful for any person to operate a business within the city without a business license, and further provides that the city will not issue a business license to any person operating a business that violates local, state or federal law. Indeed, cities that have a business license ordinance in place should review their existing codes to determine if such wording already exists.

Additionally, whether adopting a new business license program or amending an existing one to provide that the city will not issue a business license to any person operating a business that violates local, state or federal law, a city should work with its legal counsel to ensure that its business license ordinance includes an enforcement mechanism to address a situation where a person is operating a business without a business license.

Development Code

Cities that lack a business license (or that do not wish to require a business license) but desire to impose a prohibition on medical marijuana operations could include in their development codes a provision stating that the city will not issue a development permit to any person operating a business that violates local, state or federal law. If not already defined, or if defined narrowly, the city will want to amend its code to provide that a development permit includes any permit needed to develop, improve or occupy land including, but not limited to, public works permits, building permits, or occupancy permits.

The four options described above are not exclusive. A city could elect to impose more than one of these options. Other mechanisms for prohibiting medical marijuana operations not otherwise covered here might also exist. The key is that any city wanting to prohibit medical marijuana operations should work closely with its legal counsel to survey existing code, develop a means to implement and enforce such a prohibition, and then craft the necessary amendments to the city's code to accomplish the council's intent.

Time, Place and Manner Regulations

As recognized by SB 1531, cities may also opt to regulate medical marijuana dispensaries by imposing time, place and manner restrictions on their operations. Appendix A includes sample wording that a city could use when developing a time, place and manner regulation. As explained further in that appendix, the means for implementing a time, place and manner regulation can vary. Cities could decide to establish a new licensing/registration requirement for medical marijuana dispensaries and impose restrictions as a condition of that license. Alternatively, cities could impose time, place and manner restrictions generally through their community enforcement code, or through restrictions in their zoning regulations, such as amendments that expressly prohibit medical marijuana operations in certain zones. Whatever the means, cities should work closely with their city attorney to ensure adequate enforcement mechanisms are in place to deal with violations of those codes.

Appendix A

Time, Place and Manner Restrictions on Medical Marijuana Dispensaries

APPENDIX A

Time, Place and Manner Restrictions on Medical Marijuana Dispensaries

Cities that desire to implement time, place and manner restrictions on medical marijuana dispensaries have several options to do so. Among those options, cities could impose and enforce restrictions through development or zoning codes.¹⁰ Cities could also develop a new licensing/registration scheme, impose restrictions as a condition on the license, and establish a penalty for any person operating a dispensary without a license or in violation of the license terms. Cities could also impose time, place and manner restrictions through general civil ordinances and enforce those provisions with existing code enforcement mechanisms. None of those options are exclusive, and a city could also take a combined approach.

Whether to impose time, place and manner restrictions and the way in which the city does so are decisions that should be made after carefully considering the following:

- Community values;
- Availability of staff and budget for regulation and enforcement; and
- Existing regulatory and enforcement mechanisms, such as availability of code enforcement staff, law enforcement staff, and municipal court.

Given the diversity among cities and the various options and combinations available to cities, the League prepared this document to provide sample wording that could be applied in a variety of circumstances. What follows is sample wording that a city could use in developing an ordinance, which is preceded by a discussion of what the sample text does, other options and additional considerations. Put differently, what follows is not a model ordinance that can or should be adopted in its entirety. Rather, the sample ordinance text provided is meant to provide a menu of options that can be used to facilitate a discussion and aid in the development of a local ordinance that reflects local choices. Whatever option a city chooses, this document is intended to be a starting point, not an ending point, for cities that are considering adopting time, place, and manner restrictions on medical marijuana dispensaries.

This document is not a substitute for legal advice. Any local jurisdiction considering time, place and manner regulations should consult with legal counsel to obtain advice regarding the advantages, disadvantages, limitations and applicability of such an ordinance to local circumstances. Legal counsel can assist a city in preparing an ordinance that is consistent with existing ordinances and with a city's charter, and advise on what process is needed to adopt the ordinance. The law in this area is complex, and jurisdictions might face unintended

¹⁰ Note, a city electing this option will have to take into account statutory notice procedures, which could delay implementation of the regulations beyond May 1, 2015, when SB 1531 moratoriums will expire. Cities that desire to impose regulations through a land use ordinance should work with their legal counsel to evaluate those timelines and to put a temporary provision in place if need be.

consequences by simply adopting any of the following wording without the advice of legal counsel.

Finally, although the sample wording addresses a variety of subjects, and is intended to be extensive: it is not necessarily a complete list of all subjects that a city's ordinance should address. Local circumstances and community values might require an ordinance to address subjects not covered by this document. Additionally, as Oregon's experience with medical marijuana continues to develop, cities will need to revisit their ordinances and make adjustments as necessary. Likewise, the League will endeavor to do the same by periodically updating this document.

Time, Place and Manner Restrictions on Medical Marijuana Dispensaries: Overview of Subject Areas Covered

This document is not a substitute for legal advice. This document is not intended to be a complete or comprehensive code chapter on medical marijuana dispensaries. A city should not adopt the sample wording in its entirety. Rather, this document, much like a restaurant menu, covers various subjects, which a city may or may not want to include in a medical marijuana dispensary ordinance, and provides different options under each of those subjects. Consequently, this document is organized by subject area and includes a discussion of the subject followed by sample text on the following:

- Findings
- Definitions
- Rulemaking
- Licenses / Registration
 - Facility License Required
 - License Application
 - Issuance of License
 - Fees
 - Display of License
 - License Term, Renewal and Surrender
 - Transferability
 - Indemnification
- Criminal Background Checks
- Standards of Operation
 - Registration and Compliance with Oregon Health Authority Rules
 - Compliance with Other Laws
 - Hours of Operation
 - Public View into Facility
 - Odors
 - Lighting
 - Registry Identification Card Required
 - Sales in Facility
 - On-Site Use
 - On-Site Manufacturing
 - Outdoor Storage

- Secure Disposal
- Home Occupation
- Drive-Through, Walk-Up
- Labeling
- Accounting Systems
- Accounting Records

- Location
- Signs
- Edible Marijuana Products
- Examination of Books, Records and Premises
- Civil Enforcement
- Public Nuisance
- Criminal Enforcement
- Confidentiality
- Emergency Clause

Findings

Discussion

Findings provide the background and purpose of the legislation. Cities should consider how the sample findings below need to be modified to reflect their unique circumstances.

In preparing the findings, as well as other provisions of the ordinance, cities should keep in mind that marijuana remains an illegal drug under the federal Controlled Substances Act. To avoid allegations that city officials are violating federal law by authorizing the commission of a federal offense, the sample findings make clear that the authorization to operate a medical marijuana dispensary comes from state law, and not local law. As such, the sample has been drafted in a manner to be restrictive rather than permissive.

To illustrate that point, this sample includes wording for cities that desire to create a local licensing program as a way to implement their time, place and manner regulations. The sample's wording is drafted with care, however, to indicate that the source of authority to operate a medical marijuana dispensary derives from state law and that the local license is a means to impose restrictions on the operator and is not intended to be a separate source of authority. Consequently, the wording of the following sample text carefully avoids terms that would affirmatively "allow" or "authorize" medical marijuana dispensaries.

Sample Text

1. State law authorizes the operation of medical marijuana facilities and provides those facilities with immunity from state criminal prosecution.
2. Although the State of Oregon has passed legislation authorizing medical marijuana facilities and providing criminal immunity under state law, the operation of those facilities remains illegal under federal law.
3. The city council has home rule authority to decide whether, and under what conditions, certain commercial conduct should be regulated within the city and subject to the general and police powers of the city, except when local action has been clearly and unambiguously preempted by state statute.
4. Whether a certain business should operate within a local jurisdiction is a local government decision, and local governments may enforce that decision through the general and police powers of that jurisdiction.
5. *[If using an existing or creating a new license/registration system for medical marijuana facilities]* The city's licensing *[or registration]* and regulatory system should not be construed to constitute an authorization to engage in any activity prohibited by law nor a waiver of any other license or regulatory requirement imposed by any other provisions of city ordinance or local, regional, state or federal law.

6. The city council wants to regulate the operation of medical marijuana facilities in the city in ways that protect and benefit the public health, safety and welfare of existing and future residents and businesses in the city.

Definitions

Discussion

Definitions should be used to clarify intent and avoid ambiguity. The specific terms defined in a medical marijuana ordinance will depend on the provisions of that ordinance. The terms listed here are offered as examples and cover some of the most commonly-used terms in state law relating to medical marijuana facilities. They may or may not be applicable, depending on the ordinance the city adopts. In addition, depending on the needs of a particular city, it may be useful or necessary to include additional definitions not listed below.

The definitions of “marijuana” and “registration identification card” are taken primarily from ORS 475.302, which is the provision of the Oregon Revised Statutes that provides definitions for the Oregon Medical Marijuana Act. The sample text uses the term “medical marijuana facility”—rather than the term “dispensary”—because that is the term used in state statute. Another source for potential definitions is the Oregon Health Authority’s administrative rules regulating the dispensary program at OAR 333-008-1010.

It is important to note that when interpreting ordinances that contain specific references to state law, the courts will use the version of the state statute that was in effect at the time that the ordinance was adopted. Put differently, if the Legislature amends a state statute, a city ordinance that references that statute is not automatically updated to reflect the legislative change. Consequently, if using statutory cites, the city will need to periodically review and update their ordinances if the city wants the benefit of the new statutory wording.

Sample Text

1. Marijuana or medical marijuana means all parts of the plant Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination. As used in this chapter, “marijuana” or “medical marijuana” refers to marijuana dried, produced, processed, kept, stored, delivered, transferred, dispensed or otherwise provided for the exclusive benefit of and use by a person to mitigate the symptoms or effects of a person’s debilitating medical condition as defined in ORS 475.302.
2. Medical marijuana facility means a facility that is registered with the Oregon Health Authority and that sells, distributes, transmits, gives, dispenses or otherwise provides medical

marijuana to a person with a registry identification card. A facility includes all premises, buildings, curtilage or other structures used to accomplish the storage, distribution and dissemination of marijuana.

Alternative Sample Text: any facility or operation designed, intended or used for the purpose of delivering, dispensing or transferring marijuana to a person with a registry identification card.

3. **Operator** means a person who owns, operates or otherwise has legal responsibility for a facility and who meets the qualifications established by the Oregon Health Authority and has been approved by the Oregon Health Authority to operate a medical marijuana facility.
4. **Principal** means members, partners or corporate officers, and all stockholders holding more than 10 percent of the voting stock for any applicant who is not a natural person.
5. **Registration identification card** means a document issued by the Oregon Health Authority that identifies a person authorized to engage in the medical use of marijuana, and the person's designated caregiver, if any.

Rulemaking

Discussion

Depending on the size and structure of the city, a city may want to provide the city manager/administrator or that person's designee, or another appointed city official such as the chief of police, with authority to adopt administrative rules to implement and enforce the city's medical marijuana ordinances.

Sample Text

1. Rulemaking. The city manager [*administrator*] or the city manager's [*administrator's*] designee [*or some other designated public official, such as "chief of police"*] has authority to adopt administrative rules and procedures necessary for the proper administration and enforcement of this chapter [*or if not creating a new chapter, "ordinances relating to the operation of a medical marijuana facility"*].

Licenses / Registration

Facility License Required

Discussion

Cities that want to regulate medical marijuana facilities can do so in a number of ways. Many cities, particularly those with larger staffs, have decided to regulate medical marijuana facilities

through a license or permit system. Even those cities that are using a licensing system are imposing differing levels of regulation, from basic registration and tracking to extensively restricting the activities of medical marijuana facilities. Because a licensing approach allows cities to both track and regulate medical marijuana facilities, with multiple enforcement mechanisms, the sample wording provides for a licensing system. Although this sample only requires a facility license, a city could also require the employees of medical marijuana facilities to get licenses.

As explained above, to avoid conflicts with federal law, the sample text is drafted to make clear that the authority for medical marijuana dispensaries to operate comes from state, and not local, law. Although the sample text uses the word “license,” the text is intended to clarify that the license operates as a registration system, and not as a grant of authority to violate federal law. Cities that want to further emphasize that point may want to avoid the use of the word “license” and instead convert the sample text to “registration.”

Cities that adopt a licensing/registration system will have to determine where to incorporate that system into their code. For example, cities with police protection licenses may want to add medical marijuana facilities to those licensing provisions.

Sample Text

1. **Local License Required.** Medical marijuana facilities must possess a valid license issued under this chapter to operate within the city. The license required by this chapter facilitates the registration and the city’s oversight of a medical marijuana facility. The license required by this chapter should not be construed to constitute an authorization to engage in any activity prohibited by law nor a waiver of any other regulatory or license requirement imposed by any other provision of city ordinance or local, regional, state or federal law.
2. **State Registration Required.** To be eligible to apply for a license under this chapter, medical marijuana facilities must be registered with the Oregon Health Authority and authorized by state law to operate.

License Application

Discussion

Cities using a licensing/registration system will have to decide what information to request in an application. The sample list of information provided below is a compilation of application requirements from different city ordinances. Cities may determine that they want to require less, more or different information from applicants.

In addition, although this sample requires the same information for both an initial and renewal application, cities may want to use a less intensive or otherwise different process for license renewals.

Sample Text

1. Application / Renewals. Applications for new and renewed licenses must be submitted to _____ [*designated public official or city department*]. A separate application must be submitted for each proposed facility. The initial or renewal application must include the following information:
 - a. Certification that the proposed facility is registered at that location as a medical marijuana facility with the Oregon Health Authority pursuant to ORS 475.314.
 - b. The applicant's name, residence address, and date of birth. [*A city may want to require photo identification, such as a driver's license or other government-issued identification.*]
 - c. The names and residence addresses of:
 - i. Any person or legal entity that has an ownership interest in the facility, including all principals of the applicant;
 - ii. Any person or legal entity with a financial interest that has loaned or given money or real or personal property to the applicant, or principal of the applicant, for use by the proposed facility within the preceding year;
 - iii. Any person or legal entity that has leased real property to the applicant for use by the facility and any person who manages that property; and
 - iv. Any person who is anticipated at the time of the application to be an employee or volunteer at the proposed facility.
 - d. The business name.
 - e. The address and telephone number of the proposed facility.
 - f. The mailing address for correspondence about the license.
 - g. A detailed description of the type, nature and extent of the business.
 - h. The proposed days and hours of operation.
 - i. A detailed description of the proposed accounting and inventory system of the facility.
 - j. Certification that the facility has met all applicable requirements of the city development and sign code.
 - k. Certification that all applicable taxes and fees have been paid.
 - l. A complete application for a criminal background check for the applicant, and all principals, persons with a financial interest, employees, and volunteers of the proposed medical marijuana facility.

Alternative Sample Text on Criminal Background: A statement whether the applicant, principals, persons with a financial interest, employees or volunteers have been convicted

- of a misdemeanor within the past ____ [*time period*] that relates to _____, [*relevant crimes, such as fraud, theft, manufacture or delivery of a Schedule I controlled substance*] or have ever been convicted of a felony.
- m. The names of at least three natural persons who can give an informed account of the business and moral character of the applicant and principals.
 - n. The signature, under penalty of perjury, of the applicant, if a natural person, or otherwise the signature of an authorized agent of the applicant, if the applicant is other than a natural person.
 - o. Other information deemed necessary by _____ [*designated public official*] to complete review of the application.
2. Continuing obligation to update information. All information provided in an initial or renewal application must be kept current at all times, including after a license is issued. Each licensee shall notify _____ [*designated public official or department*] in writing within _____ [*time period, such as ten business days*] of any change in the information provided to obtain the license.

Issuance of License

Discussion

Each city that adopts a licensing/registration system will have to determine the process for issuing licenses, the criteria for issuing or denying a license, and who within the city will apply those criteria. Cities may want to look to how other local licenses, such as business licenses, are issued in crafting a process for issuing medical marijuana facility licenses.

If a city wants to cap the number of licenses that it will issue, the city could address that issue in this section. If a city takes that approach, it should consider what method it will use to determine which applicants will receive licenses when the number of applications exceeds the cap.

Sample Text

1. Determination. Within ____ [*time period*] after receiving a complete [*initial or renewal*] application and license fee for a medical marijuana facility license, the _____ [*designated public official or department*] will issue the license if _____ [*designated public official or department*] finds that the facility is registered as a medical marijuana facility with the Oregon Health Authority pursuant to ORS 475.314 and that all other requirements under this chapter have been met.
2. Denial. In addition to denial for failure to meet the requirements of this chapter, the _____ [*designated public official or department*] may deny a license if:
 - a. The applicant made an untrue, misleading, or incomplete statement on, or in connection with, the application for the license or a previous application for a license;

- b. Notwithstanding the federal Controlled Substances Act, the applicant fails to meet all requirements of local, state, and federal laws and regulations, including, but not limited to, other permitting or licensing requirements and land use regulations; or
- c. The _____ [*applicant, principals, employees, volunteers, persons with a financial interest in the facility*] have been convicted of _____ [*specified crimes*].

Fees

Discussion

Cities adopting a licensing system may want to charge a one-time initial license application fee, an annual license fee, or both. Cities may want to look at how their other licensing fees are structured when setting the medical marijuana facility license fee. Some cities prorate the license fee for licenses that are issued after a certain point in the licensing year. For example, if all licenses expire on December 31 each year, a city might prorate the fees for licenses issued after June 30 of that year. Some cities also provide that license fees are not refundable.

Sample Text

1. Fee. An initial license application or renewal application must be accompanied by a license fee. The fee amount will be established by _____ [*method for setting fees, commonly through council resolution; alternatively, fee amount may be set by ordinance*].

Display of License

Sample Text

1. Display. When requested, the licensee shall show the license issued under this chapter to any person with whom the licensee is dealing as part of the licensed activity or to _____ [*designated public official*].

Alternative Sample Text: The license issued under this chapter must be prominently displayed at all times in an easily visible location inside the facility.

License Term, Renewal and Surrender

Discussion

Cities with licensing/registration systems will need to set a term and create a renewal process. The two options in the first subsection below provide different means of tracking expiration and renewal. The first option would put all renewals at one time of year and the second option would

put renewals on a rolling basis. Cities may want to consider schedules for other local license and renewal processes to determine whether to align medical marijuana facility licenses with those other processes. In addition, cities may want to provide a process for surrendering a license/registration.

Sample Text

1. Termination. A license terminates automatically _____ [*on month and day of each year/certain years or some time period from the date of issuance*], unless a license renewal application has been approved.
2. Renewal. A license may be renewed for additional _____ [*duration*] terms as provided by this chapter.
3. Renewal Application. Renewal applications shall be submitted, with the required license fee, to _____ [*designated public official or department*] not less than _____ [*days, months*] prior to the expiration date of the existing license.
4. Termination Due to Change in Law. A license terminates automatically if federal or state statutes, regulations or guidelines are modified, changed, or interpreted in such a way by state or federal law enforcement officials as to prohibit operation of the facility under this ordinance.
5. Surrender. A licensee may surrender a medical marijuana facility license by delivering written notice to the city that the licensee thereby surrenders the license. A licensee's surrender of a license under this section does not affect the licensee's civil or criminal liability for acts the licensee committed before surrendering the license.

Transferability

Discussion

Cities should consider whether they want to allow licensees to transfer their license, and, if so, the process for allowing such a transfer. For example, under certain circumstances, a city might allow the license to be transferred if the business is sold. The alternative sample text below provides for a license transfer. Cities that allow for transfer might consider creating a transfer application, which could require an accompanying fee, to ensure that the new licensee is eligible to hold the license. In addition, cities that allow for transfer should review the restrictions in state law. For example, under OAR 333-008-1050(7), a facility's registration may not be transferred to another location, and OAR 333-008-1090 describes additional limits on transfers between individuals.

Sample Text

1. Transferability. Licenses issued under this chapter shall not be transferred to any other person.

Alternative Sample Text: Licenses issued under this chapter may be transferred to another person upon determination by _____ [*designated public official*] that the person receiving the license meets the requirements of this chapter for licensees.

Indemnification

Sample Text

1. Waiver. By accepting a medical marijuana facility license issued under this chapter, the licensee waives and releases the city, its officers, elected officials, employees, volunteers and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of a facility owner or operator, principal, person or legal entity with a financial interest in the facility, person or entity that has leased real property to the facility, employee, volunteer, client or customer for a violation of federal, state or local laws and regulations.
2. Indemnification. By accepting a medical marijuana facility license issued under this chapter, the licensee(s), jointly and severally if there is more than one, agree to indemnify and hold harmless the city, its officers, elected officials, employees, volunteers, and agents, insurers, and self-insurance pool against all liability, claims, and demands on account of any injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the medical marijuana facility that is the subject of the license.

Criminal Background Checks

Discussion

Under state statute, only the “person responsible for a medical marijuana facility” —in most cases, the owner—is required to submit to a criminal background check. Cities may want to require additional background checks for employees, volunteers or other individuals associated with a medical marijuana facility. Alternatively, cities could require license applicants and others associated with licensed facilities to self-report that information as part of the application process, as provided in the License Application alternative sample text above.

State statute limits the class of convictions that would prohibit a person from registering with the Oregon Health Authority as a facility owner. Cities may want to include additional disqualifying convictions.

Alternatively, some cities may want to use their licenses solely for tracking purposes, without limiting who is eligible to receive a license or work at a licensed facility. In that case, a city may not want to require criminal background checks.

Sample Text

1. Background Check Required / Disqualification. All _____ [applicants, principals, employees, volunteers, persons with a financial interest in the facility] must submit to a criminal background check performed by _____ [designated public official] before _____ [a license will be issued; beginning employment at a facility; etc.]. A person who has been convicted of _____ [specified crimes] may not be _____ [a licensee, employee, volunteer, etc.].

Standards of Operation

Discussion

The topics covered in this section are examples of some of the many issues that a city may want to address in regulating medical marijuana facilities, but the list is not exhaustive. In drafting provisions for a section covering standards of operation, there are at least three considerations to keep in mind.

First, SB 1531 provides that time, place and manner regulations need to be “reasonable,” however the bill does not define that term. As noted above, the preemptive effect of SB 1531 is currently the subject of litigation. Nonetheless, until that litigation is resolved, regulations that exceed what others think are needed to meet public health, welfare and safety concerns could face legal challenge as being “unreasonable.” Consequently, a city will be better positioned against a potential legal challenge if it makes specific findings as to why the regulations serve public health, welfare and safety concerns.

Second, as a reminder, a city should consider drafting ordinances to restrict, rather than authorize, certain activities in an effort to avoid conflicts with federal law. For example, rather than providing that a medical marijuana facility *may* operate between the hours of 8:00 a.m. and 5:00 p.m., the ordinance should provide that a facility *may not* operate between the hours of 5:00 p.m. and 8:00 a.m. If the city does not want to restrict activity, it should simply remain silent on that issue, rather than affirmatively authorizing conduct that is illegal under federal law.

Third, when deciding what restrictions to impose, cities should become familiar with the conditions the state is placing on dispensaries by reviewing the most recent version of OAR 333-008-0000 to OAR 333-008-1400. After reviewing those conditions, cities should consider whether they want to impose additional requirements or whether they want to include similar requirements in their code so that they can independently enforce those provisions of state law through local enforcement mechanisms.

Sample Text

1. **Registration and Compliance with Oregon Health Authority Rules.** The facility's registration as a medical marijuana facility under ORS 475.314 must be in good standing with the Oregon Health Authority, and the facility must comply with all applicable laws and regulations administered by the Oregon Health Authority for facilities.
2. **Compliance with Other Laws.** The facility must comply with all applicable laws and regulations, including, but not limited to, the building and fire codes.
3. **Hours of Operation.** Operating hours for medical marijuana facilities must be no earlier than _____ and no later than _____ on the same day. [*consider using same time period as allowed under any applicable ordinance relating to liquor stores*]
4. **Public View into Facility.** All doorways, windows and other openings shall be located, covered or screened in such a manner to prevent a view into the interior from any exterior public or semipublic area.
5. **Odors.** The facility must use an air filtration and ventilation system which, to the greatest extent feasible, confines all objectionable odors associated with the facility to the premises. For the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected.
6. **Lighting.** Facilities must maintain adequate outdoor lighting over each exterior exit.
7. **Registry Identification Card Required.** All persons allowed within the facility, except _____ [*designated public officials*], must have a valid registry identification card and be in compliance with rules adopted by the Oregon Health Authority.
8. **Sales in Facility.** Sales or any other transfers of marijuana on the facility premises must occur inside the facility building and must be conducted only between the facility and individuals with registry identification cards.
9. **On-Site Use.** Marijuana and tobacco products must not be smoked, ingested, consumed or otherwise used on the premises of a medical marijuana facility.
10. **On-Site Manufacturing.** Manufacturing or production of any extracts, oils, resins or similar derivatives of marijuana is prohibited at a facility. Use of open flames or gases in the preparation of any products is prohibited at a facility.
11. **Outdoor Storage.** Outdoor storage of merchandise, raw materials or other material associated with the facility is prohibited.
12. **Secure Disposal.** The facility must provide for secure disposal of marijuana remnants or by-products; marijuana remnants or by-products shall not be placed within the facility's exterior refuse containers.
13. **Home Occupation.** A facility may not be operated as a home occupation.

14. Drive-Through, Walk-Up. A facility may not have a walk-up window or a drive-through. *[Note, if the mobile dispensary provisions discussed below under Location are not used, a city might consider adding them here.]*
15. Labeling. All products containing medical marijuana intended to be ingested (i.e. edibles) must be labeled with the product's serving size and the amount of tetrahydrocannabinol in each serving.
16. Accounting Systems. The medical marijuana facility must have an accounting system specifically designed for enterprises reliant on transactions conducted primarily in cash and sufficient to maintain detailed, auditable financial records. If the _____ *[designated public official]* finds the books and records of the facility are deficient in any way or if the facility's accounting system is not auditable, the facility must modify the accounting system to meet the requirements of the _____ *[designated public official]*.
17. Accounting Records. Every facility must keep and preserve, in an accounting format established by _____ *[designated public official]*, records of all sales made by the dispensary and such other books or accounts as may be required by the _____ *[designated public official]*. Each facility must keep and preserve for a period of at least _____ *[time period]* records containing at least the following information:
- a. Daily wholesale purchases (including grow receipts) and retail sales, including a cash receipts and expenses journal;
 - b. State and federal income tax returns;
 - c. True names and any aliases of any owner, operator, employee or volunteer of the facility;
 - d. True names and addresses and any aliases of persons that have, or have had within the preceding year, a financial interest in the facility; and
 - e. _____ *[designated public official]* may require additional information as he or she deems necessary.

Location

Discussion

A city can regulate the location of a medical marijuana dispensary either through amendments to its zoning code, made in accordance with local and statutory land use procedures, or by imposing conditions on the medical marijuana facility license. Cities should consult their city attorney to discuss the benefits, risks and timelines associated with each approach.

Cities may want to impose restrictions on where medical marijuana facilities can locate in relation to other zones or specified locations. For example, a city could impose limits on the distance of medical marijuana facilities from:

- A residential zone or residentially zoned property;
- Places where children congregate;
- A public elementary, private elementary, secondary, or career school attended primarily by individuals under the age of 21;
- A public library;
- A public park, public playground, recreation center, or facility;
- A licensed child care facility;
- A public transit center;
- Any game arcade where admission is not restricted to persons aged 21 or older;
- Another licensed medical marijuana facility;
- Any public property, not including the right of way; or
- Any combination of the above.

Cities that impose those types of distance restrictions should consider how those provisions will operate if one of the protected properties, such as a school, locates within a restricted area of an existing medical marijuana facility. An ordinance could provide that the medical marijuana facility may remain in place, that the license will be revoked, or that the license will no longer be eligible for renewal. Cities should work closely with their city attorney to evaluate the risks and benefits of those options. In addition, cities may want to look to the state regulations for guidance. For example, under OAR 333-008-1090(4), a facility may no longer transfer medical marijuana if certain types of schools are “found to be within 1,000 feet of the registered facility.”

In addition, cities should consult their city attorney if they are imposing restrictions that are more stringent than those imposed under state law, by, for example, requiring facilities to locate 2,000 feet from other medical marijuana facilities. Although the courts have generally upheld local authority to impose more stringent requirements than those imposed by state law, a city should consult its city attorney regarding the risks associated with taking a more restrictive approach. That is true particularly if the regulations have the effect of prohibiting dispensary operations within the city. As noted above, the League believes SB 1531’s provisions are not exclusive, and that a city may prohibit dispensary operations. Consequently, even if a city’s regulations effectively result in prohibiting dispensaries from operating, the League believes it is within a city’s authority to adopt such regulations. However, a city that takes that route should work closely with its legal counsel to follow current court cases in this area and be prepared to defend its regulations against a legal challenge.

Cities that adopt distance restrictions will also need to consider how the distance will be measured. For example, one city provided that the distance would be measured in a straight line from the closest edge of each property line, while another city provided that the distance would be measured from the property line of the affected property, such as a school, to the closest point of space occupied by the medical marijuana facility. Another city provided that the distance would be measured between the closest points of the respective lot lines.

In addition to distance restrictions, some cities have imposed restrictions on what types of businesses can collocate with medical marijuana facilities. For example, some cities have prohibited collocation with tobacco smoking lounges, marijuana social clubs, and retail marijuana facilities. Some cities have also required medical marijuana facilities to be located at fixed, permanent locations. For example, an ordinance might provide, “A medical marijuana facility may not be located at a temporary or mobile site. No person shall locate, operate, own, allow to be operated or aid, abet or assist in the operation of any mobile medical marijuana facility which transports or delivers, or arranges transportation or delivery, of medical marijuana to a person.”

Sample Text

1. Restrictions on Location. A medical marijuana facility shall not locate:
 - a. Within a residence or mixed-use property that includes a residence.
 - b. Within _____ zone(s).
 - c. Within _____ [*distance*] of _____ [*certain zones, types of properties, medical marijuana facilities, etc.*]
 - d. On the same property or within the same building with _____ [*other types of facilities, such as marijuana social clubs*].
2. Distances. For purposes of this section, all distances shall be measured _____ [*method for measuring distance*].

Signs

Discussion

No sample text is provided because cities that want to regulate the signs on medical marijuana facilities should consider applying their existing sign code. If a city does not have a sign code, the League has “A Guide for Drafting a Sign Code,” which includes a sign code template, available in the Library on the League’s website (www.orcities.org). Cities that want to impose sign restrictions on medical marijuana facilities other than those already in the city sign code should consult their city attorney about possible free speech implications.

Edible Marijuana Products

Discussion

SB 1531 requires certain marijuana products to be packaged in child-resistant safety packaging and prohibits the transfer of certain marijuana products that are manufactured or packaged in a manner that is attractive to minors. The Oregon Health Authority has enacted rules that further clarify those standards. See OAR 333-008-1225 (defining what qualifies as “child-resistant safety packaging” and “packaged in a manner not attractive to minors”). A city might wish to review those sections and replicate them in local code so that it may use local enforcement procedures in the event that the state declines to take an enforcement action under state law.

Examination of Books, Records and Premises

Discussion

Cities regulating medical marijuana facilities should consider who will enforce those regulations and how. One aspect of that decision is whether a city will provide for inspections, and, if so, what those inspections will entail and who will conduct them. In addition, cities that provide for inspection of a facility and its records may want to specify which records a medical marijuana facility must keep, and for how long. Sample text on records retention is provided in the Standards of Operation section above.

Sample Text

1. Examination of Books, Records and Premises. To determine compliance with the requirements of this chapter and other chapters of _____ [*city's code*], a licensee shall allow _____ [*designated public official*] to examine or cause to be examined by an agent or representative designated by _____ [*designated public official*], at any reasonable time, the premises of the facility, including wastewater from the facility, and any and all facility financial, operational and facility information, including books, papers, payroll reports, and state and federal income tax returns. Every licensee is directed and required to furnish to _____ [*designated public official*] the means, facilities and opportunity for making such examinations and investigations.
2. Compliance with Law Enforcement. As part of investigation of a crime or a violation of this chapter which law enforcement officials reasonably suspect has taken place on the facility's premises or in connection with the operation of the facility, the _____ [*designated public official*] shall be allowed to view surveillance videotapes or digital recordings at any reasonable time. Without reducing or waiving any provisions of this chapter, the _____ [*law enforcement department*] shall have the same access to the facility, its records and its operations as allowed to state inspectors.

Alternative Sample Text: Facilities shall be open for inspection and examination by _____ [*public official charged with enforcement*] during all operating hours.

Civil Enforcement

Discussion

A licensing system allows a city multiple methods of enforcement. As included in the sample text below, the city can deny, suspend or revoke a license, but it may also impose penalties on a facility owner that does not comply with local ordinances.

If a city adopts a license suspension and revocation provision like the one listed below, a city may want to consider whether to address additional issues such as:

- Will the ordinance list all possible reasons for revocation, or will it include a more general revocation provision based on noncompliance with this chapter, as provided in the sample?
- Will the ordinance provide the form and timing of the suspension or revocation? For example, “Any denial, suspension or revocation under this section shall be in writing, including the reasons for the denial, suspension or revocation, and sent by first-class mail at least _____ [*time period*] prior to the effective date of the denial, suspension or revocation.” If the licensee is given advanced notice of the pending suspension or revocation, as is the case in this sample language, the city may want to give the licensee a period of time within which to correct the problem to avoid suspension or revocation.
- Will the ordinance allow for an appeal, and, if so, can that decision be appealed? For example, “A denial, suspension, or revocation under this section may be appealed to _____ [*designated public official*]. The findings of _____ [*designated public official*] shall be final and conclusive.” In addition, if the ordinance allows for an appeal, the city may want to include in the ordinance whether the appeal stays the pending enforcement action.
- Will the ordinance put limitations on how soon after revocation a person or entity can apply for a new license? For example, “A person or entity who has had a license revoked may not apply for a new license until _____ [*time period*] from the date of the revocation.”

Cities may also want to review their existing city codes to see if there are other violation provisions that they want to incorporate by reference here.

Sample Text

1. Enforcement. _____ [*designated public official*] may deny, suspend or revoke a license issued under this chapter for failure to comply with this chapter [*and rules adopted under this chapter*], for submitting falsified information to the city or the Oregon Health Authority, or for noncompliance with any other city ordinances or state law.
2. Civil Penalty. In addition to the other remedies provided in this section, any person or entity, including any person who acts as the agent of, or otherwise assists, a person or entity who fails to comply with the requirements of this chapter or the terms of a license issued under

this chapter, who undertakes an activity regulated by this chapter without first obtaining a license, who fails to comply with a cease and desist order issued pursuant to this chapter, or who fails to comply with state law shall be subject to a civil penalty not to exceed _____ [amount] per violation.

3. **Other Remedies.** In addition to the other remedies provided in this section, the city may institute any legal proceedings in circuit court necessary to enforce the provisions of this chapter. Proceedings may include, but are not limited to, injunctions to prohibit the continuance of a licensed activity, and any use or occupation of any building or structure used in violation of this chapter.
4. **Remedies not Exclusive.** The remedies provided in this section are not exclusive and shall not prevent the city from exercising any other remedy available under the law, nor shall the provisions of this chapter prohibit or restrict the city or other appropriate prosecutor from pursuing criminal charges under city ordinance or state law.

Public Nuisance

Discussion

Public nuisance ordinances provide a means for cities to take action to protect the public in general. Adding a public nuisance provision to a medical marijuana facility ordinance provides the city with another means of enforcing its local regulations. A city that has a municipal court might also consider working with its legal counsel to determine whether it can provide for private nuisance actions in municipal court.

Sample Text

1. **Public Nuisance.** Any premises, house, building, structure or place of any kind where medical marijuana is grown, processed, manufactured, sold, bartered, distributed or given away in violation of state law or this chapter, or any place where medical marijuana is kept or possessed for sale, barter, distribution or gift in violation of state law or this chapter, is a public nuisance.
2. **Action to Remedy Public Nuisance.** The city may institute an action in circuit court in the name of the city to abate, and to temporarily and permanently enjoin, such nuisance. The court has the right to make temporary and final orders as in other injunction proceedings. The city shall not be required to give bond in such an action.

Criminal Enforcement

Discussion

As noted, cities generally cannot criminalize what state law expressly allows. However, it is an open question whether a city can impose criminal penalties for violating a law of general applicability that reaches conduct expressly authorized under state law. For example, it is an open question whether a city can impose criminal penalties on a medical marijuana facility that operates without a business license, in violation of local law, because state law does not expressly provide that a facility is exempt from criminal prosecution for operating without a business license. Therefore, cities that want to impose criminal penalties should work closely with their city attorney to determine whether the city can impose criminal penalties for failure to comply with the city's licensing provisions or other provisions of general applicability.

Confidentiality

Sample Text

1. Confidentiality. Except as otherwise required by law, it shall be unlawful for the city, any officer, employee or agent to divulge, release or make known in any manner any financial or employee information submitted or disclosed to the city under the terms of this chapter. Nothing in this section shall prohibit the following:
 - a. The disclosure of names and facility addresses of any licensee under this chapter or of _____ [other individuals associated with a medical marijuana facility, such as other owners];
 - b. The disclosure of general statistics in a form which would prevent identification of financial information regarding a facility [or facility operator];
 - c. The presentation of evidence to a court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the city under this chapter;
 - d. The disclosure of information upon request of a local, state or federal law enforcement official; or
 - e. The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures [or when such disclosure is ordered under the Oregon Public Records Law].

Emergency Clause

Discussion

The League's model charter, available on the Library page under Publications on the League's website (www.orcities.org), provides that ordinances normally take effect on the 30th day after adoption, or on a later day provided in the ordinance. The model charter provides an exception to that general rule and allows an ordinance to take effect as soon as adopted, or on another date less than 30 days after adoption, if it contains an emergency clause. Cities that want their ordinance to have immediate effect should review their charter and talk to their city attorney about whether an emergency clause is needed.

Sample Text

This act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance shall be in full force and effect on _____ [date].

RECEIVED

APR 15 2015

UMATILLA COUNTY
RECORDS

THE BOARD OF COMMISSIONERS OF UMATILLA COUNTY

STATE OF OREGON

In the Matter of Imposition of)
Moratorium on Marijuana) ORDINANCE NO. 2015-02
Dispensaries in Umatilla County)

WHEREAS in 2013, the Oregon Legislature enacted House Bill 3460, which requires the Oregon Health Authority to develop and to implement a process to register medical marijuana facilities and directed that persons who operate or are employed by a registered medical marijuana facility would enjoy immunity from state prosecution;

WHEREAS the issue of whether a local government believes a certain type of business should operate within its jurisdictional limits is a local government decision, the enforcement of which is subject to the general and police powers of that jurisdiction;

WHEREAS, on April 2, 2014, the Board of Commissioners adopted Ordinance No. 2014-02, imposing a moratorium on Marijuana Dispensaries in Umatilla County, through May 1, 2015;

WHEREAS on April 17, 2014, the Board of Commissioners created and appointed a Umatilla County Marijuana Dispensary Study Committee to review the options available to Umatilla County for the regulation of marijuana dispensaries and to provide to the Board available alternatives prior to the expiration of the period for the moratorium;

WHEREAS the Umatilla County Marijuana Dispensary Study Committee provided a report that recommended that amendments to the Umatilla County Development Code be considered and that the moratorium on medical dispensaries should continue to at least December 31, 2015;

WHEREAS this Ordinance is enacted pursuant to one or more of the following authorities:

- (1) The inherent powers of Umatilla County pursuant to the Oregon Constitution, Oregon law and the Umatilla County Charter;
- (2) The federal Controlled Substances Act, 21 USC 801, et seq.;

WHEREAS, the Umatilla County Board of Commissioners believes it is in the best interests of the health, safety and welfare of the citizens of Umatilla County to enact a moratorium prohibiting the operation of medical marijuana facilities within the jurisdictional boundaries of Umatilla County.

NOW, THEREFORE the Board of Commissioners of Umatilla County ordains the adoption of the following:

1. There is a moratorium on the operation of any marijuana dispensary in any area subject to the jurisdiction of Umatilla County, and the operation of any registered medical marijuana facilities area subject to the jurisdiction of Umatilla County is suspended.

2. As used in this ordinance, marijuana dispensary includes any facility that dispenses marijuana pursuant ORS 475.314, or any other provision of Oregon law.

3. The moratorium imposed by this ordinance shall be effective until January 1, 2016, unless rescinded sooner.

4. This moratorium does not preclude or pre-empt a City in Umatilla County from adopting any ordinance allowing marijuana dispensaries within the City limits of that City.

5. The remedies available for a violation of the moratorium imposed by this ordinance are those remedies available under any applicable federal, state or local law. It is within the discretion of Umatilla County to seek cumulative remedies for a violation of the moratorium imposed by this ordinance.

6. 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.

7. By unanimous vote of those present, the Board of Commissioners deems this Ordinance necessary for the immediate preservation of public peace, health, and safety; therefore, it is adjudged and decreed that an emergency does exist in the case of this Ordinance and it shall be in full force and effect from and after its adoption.

DATED this 15th day of April, 2015.

UMATILLA COUNTY BOARD OF COMMISSIONERS



George L. Murdock, Chair

ABSENT

W. Lawrence Givens, Commissioner



William J. Elfering, Commissioner

ATTEST:
OFFICE OF COUNTY RECORDS



Records Officer

