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COMMENT FORM



PLEASE PRINT CLEARLY

- SPEAK INTO THE MICROPHONE AND STATE YOUR NAME AND RESIDING CITY
- ✓ Limit Comments to 3 MINUTES.
- Give to the Clerk in Chambers prior to the meeting.

Date of Meeting

June 25, 2016

Item Number From Agenda

3 LE-16-0001

NAME:

Oregon City Together, Doug Neely

ADDRESS:

Street: 71614 Parrish Road

City, State, Zip: Oregon City, Oregon 97045

PHONE NUMBER:

503-650-5035

E-MAIL ADDRESS:

intstats@sbcglobal.net

SIGNATURE:

Doug Neely

②

COMMENT FORM



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Date of Meeting 7-25-2016

Item Number From Agenda LE 16-0001

NAME: Kendall EVANS

ADDRESS: Street: 13500 S. Wavnock Rd
City, State, Zip: O.C 97045

PHONE NUMBER: 503-657-7071

E-MAIL ADDRESS: dr Kendall.evans@AOL.COM

SIGNATURE: Kendall Evans

3

COMMENT FORM



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Date of Meeting 7/25/14

Item Number From Agenda LE 16-0001

NAME:

~~ERIC~~ ERIC NELSON

ADDRESS:

Street: 7710 SW PINE

City, State, Zip: Tigard OR

PHONE NUMBER:

971-227-1054

E-MAIL ADDRESS:

SIGNATURE:

Eric Nelson

COMMENT FORM



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Date of Meeting

7/25/16

Item Number From Agenda

1

LE-16-0001

NAME:

Ian Watson

ADDRESS:

Street:

2325 NW Hoyt St.

City, State, Zip:

Portland, Oregon, 97210

PHONE NUMBER:

503-545-7043

E-MAIL ADDRESS:

ian@maritimedispensary.com

SIGNATURE:

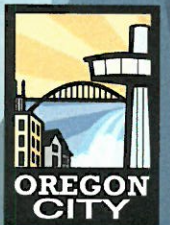


Marijuana Business Regulations

LE-16-0001



First Planning Commission Public Hearing - August 25, 2016



ENTERED INTO THE RECORD
DATE RECEIVED: 7/25/16 Staff
SUBMITTED BY: Dr. Kendall Evans
SUBJECT: LE-16-0001

Introduction

State Laws and Bills

- ▶ HB 3400, the omnibus bill that amended the Oregon Medical Marijuana Act (OMMA) and Measure 91, which the voters passed in November 2014 legalizing recreational marijuana use in Oregon;
- ▶ HB 2041, which revised the state tax structure for recreational marijuana;
- ▶ SB 460, which authorized early sales of recreational marijuana by medical marijuana dispensaries; and
- ▶ SB 844, which contains miscellaneous provisions.

Current City Policy

- ▶ Measure 91 passed in Oregon City 52.4% (6,619) to 47.6% (6,010).
- ▶ Under state law (HB 3400), cities were permitted to temporarily ban recreational and medical marijuana businesses (Ord. 15-1017), provided the measure is submitted to the voters (Reso. 16-10).
- ▶ The temporary ban allowed time to draft reasonable regulations for the time, place and manner of marijuana businesses in Oregon City.
- ▶ If the voters lift the ban in November, proposed regulations would go into effect.

What are “Reasonable Regulations”?

- ▶ Some examples:

- ▶ The **hours of operation** of retail licensees and medical marijuana grow sites, processing sites and dispensaries;
- ▶ The **location** of all four types of recreational licensees, as well as medical marijuana grow sites, processing sites and dispensaries, except that a city may not impose more than a 1,000-foot buffer between retail licensees;

Example: Specific zones only, 1000' + from schools, etc.

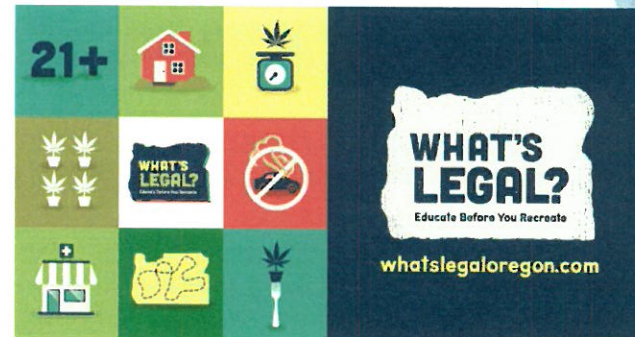
- ▶ The **manner of operation** of all four types of recreational licensees, as well as medical marijuana processors and dispensaries; and

Example: security cameras, odor controls, security lighting

State law also provides that time, place and manner regulations imposed on recreational licensees must be consistent with the city's comprehensive plans, business licenses, zoning ordinances, and public health and safety laws, which would be true of any ordinance imposed by the city.

Personal Use and Cultivation

- ▶ The proposed regulations will not apply to the following:
 1. Personal cultivation and use of recreational marijuana as permitted under State Law, provided all cultivation activities are conducted indoors.
 2. Personal cultivation and use of medical marijuana under the Oregon Medical Marijuana Program (OMMP), provided all activities including production are conducted indoors.



Some Definitions

- ▶ **Marijuana** means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae. “Marijuana” does not include industrial hemp, as defined in state law.
- ▶ **Marijuana business** means (1) any business licensed by the Oregon Liquor Control Commission or Oregon Health Authority to engage in a business of a laboratory or producing, processing, wholesaling, retailing marijuana or marijuana items.
- ▶ **Marijuana processor (processing)** means an entity licensed by the Oregon Liquor Control Commission or Oregon Health Authority to process marijuana. This includes the manufacture of concentrates, extracts, edibles and or topicals.
- ▶ **Marijuana producer (production)** means an entity licensed by the Oregon Liquor Control Commission or the Oregon Health Authority to manufacture, plant, cultivate, grow or harvest marijuana. This is the only license able to cultivate marijuana.
- ▶ **Marijuana laboratory (laboratories)** means an entity which tests or researches marijuana products for THC levels, pesticides, mold, etc. pursuant to applicable Oregon Administrative Rules.
- ▶ **Marijuana retailer** means an entity licensed by the Oregon Liquor Control Commission or Oregon Health Authority to sell marijuana items to a consumer in this state.
- ▶ **Marijuana wholesaler** means an entity licensed by the Oregon Liquor Control Commission or Oregon Health Authority to purchase items in this state for resale to a person other than a consumer. This means an entity that buys and sells at wholesale.

Legislative Review Process and Criteria

- ▶ Legislative Public Hearings with Planning Commission and City Commission
- ▶ Process and Criteria for zone changes and amendments in 17.68:
 - A. *The proposal shall be consistent with the goals and policies of the comprehensive plan.*
 - B. *That public facilities and services can be made available prior to issuing a certificate of occupancy. Service shall be sufficient to support the range of uses and development allowed by the zone.*
 - C. *The land uses authorized by the proposal are consistent with the existing or planned function, capacity and level of service of the transportation system serving the proposed zoning district.*
 - D. *Statewide planning goals shall be addressed if the comprehensive plan does not contain specific policies or provisions which control the amendment.*

Public Process - May 2016 to Present

- ▶ Presentations to the Citizen Involvement Council and Police Chief's Advisory Committee
- ▶ Work Sessions with the Planning Commission and City Commission
- ▶ Two Public Open Houses, with OLCC staff
- ▶ Presentations to Oregon City Chamber of Commerce, Oregon City Business Alliance, and Oregon City Downtown Business Association.
- ▶ Three Web-Based Surveys
- ▶ A project Web-site with frequent updates and FAQ's
- ▶ Posts on the city Facebook page
- ▶ Public Notices
- ▶ Development of Maps and on-line GIS Application

Surveys

- ▶ Staff developed 3 web-based surveys for gauging public opinion and concerns about marijuana businesses and proposed regulations.
- ▶ Survey #1 - April: 167 responses
- ▶ Survey #2 - May: 133 responses
- ▶ Survey #3 - June: 84 responses

Survey Results

Survey results shown are current as of April 24, 2016.

Surveys can be taken at: www.orcity.org

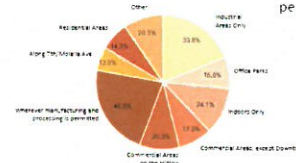
If retail sale of marijuana was permitted in Oregon City, where should it be allowed?

Retail sale of marijuana is defined as an entity licensed by OLCC to sell marijuana to a consumer in a store.
Note: Respondents were allowed to choose multiple preferences.



If production of marijuana was permitted in Oregon City, where should it be allowed?

Production of marijuana is defined as an entity licensed by the OLCC to manufacture, plant, cultivate, grow or harvest marijuana.
Note: Respondents were allowed to choose multiple preferences.



Survey Summary

Surveys generally indicated the following preferences:

- ▶ Production was generally favored in only industrially zoned lands
- ▶ Processing was favored on employment and industrial lands, and possibly mixed use zones.
- ▶ Warehousing was favored wherever warehousing is permitted
- ▶ Retail - Was not favored anywhere in or adjacent to residential uses, parks, school or childcare uses, otherwise generally OK wherever retail is permitted given adequate separation requirements.
- ▶ Odor, security, screening, lighting and design requirements.

Zoning

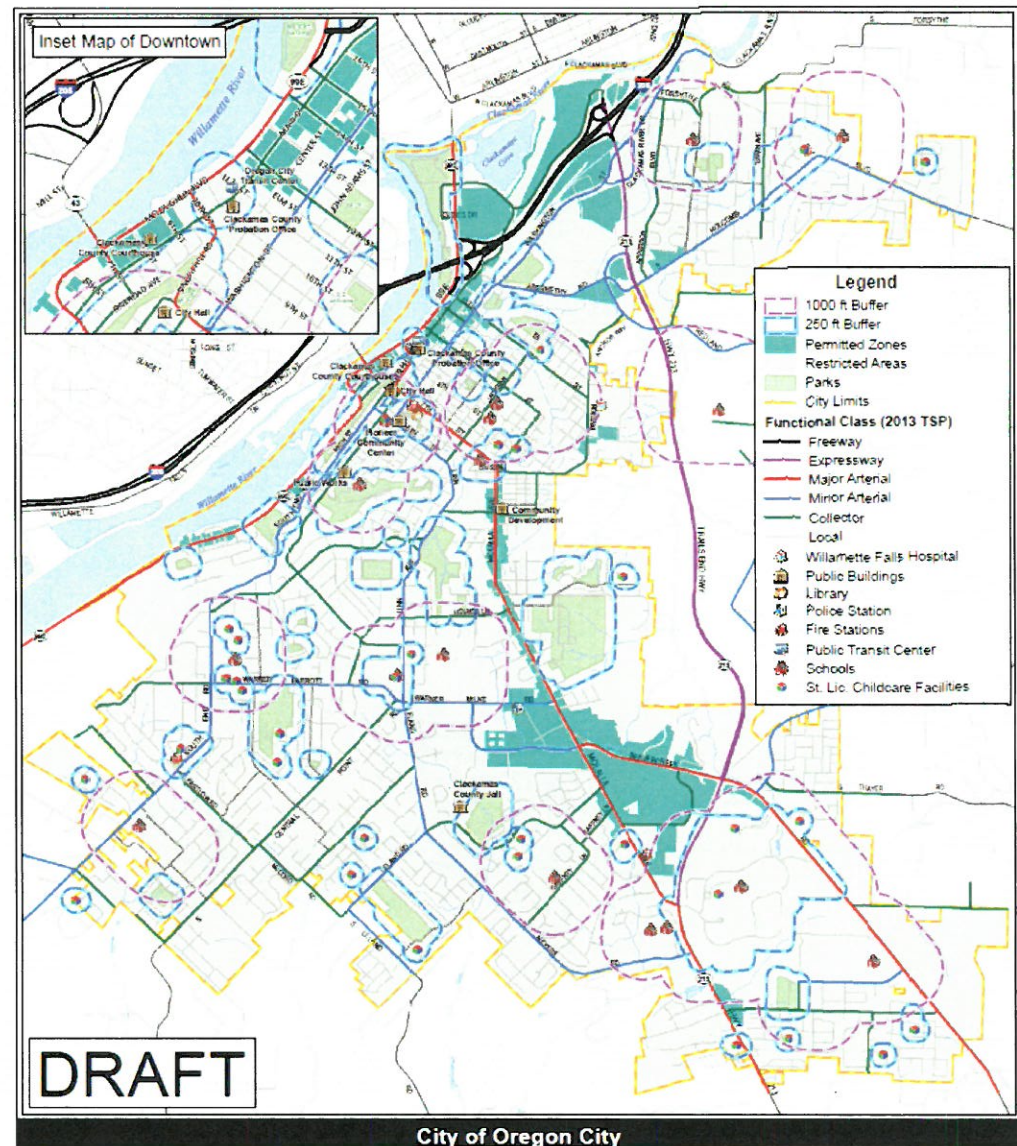
Zone District	Marijuana Business Type				
	Producer	Processor	Laboratory	Wholesaler	Retailer
Residential Zones					
R-10 - Single-Family Dwelling	X	X	X	X	X
R-8 - Single-Family Dwelling	X	X	X	X	X
R-6 - Single-Family Dwelling	X	X	X	X	X
R-5 - Single-Family Dwelling	X	X	X	X	X
R-3.5 - Two-Family Dwelling	X	X	X	X	X
R-2 - Multi-Family Dwelling	X	X	X	X	X
Mixed Use and Commercial Zones					
C - General Commercial	X	X	X	X	✓
NC - Neighborhood Commercial	X	X	X	X	✓
HC – Historic Commercial	X	X	X	X	✓
MUC - Mixed Use Corridor	X	X	X	X	✓
MUD - Mixed Use Downtown	X	X	X	X	✓
WFDD - Willamette Falls Downtown	X	X	X	X	✓
Industrial and Employment Zones					
GI – General Industrial	✓	✓	✓	✓	✓*
MUE – Mixed Use Employment	X	✓	✓	✓	✓*
CI – Campus Industrial	X	✓	✓	✓	✓*
Institutional Zones					
I - Institutional	X	X	X	X	X

Retail / Dispensaries

▶ Prohibited:

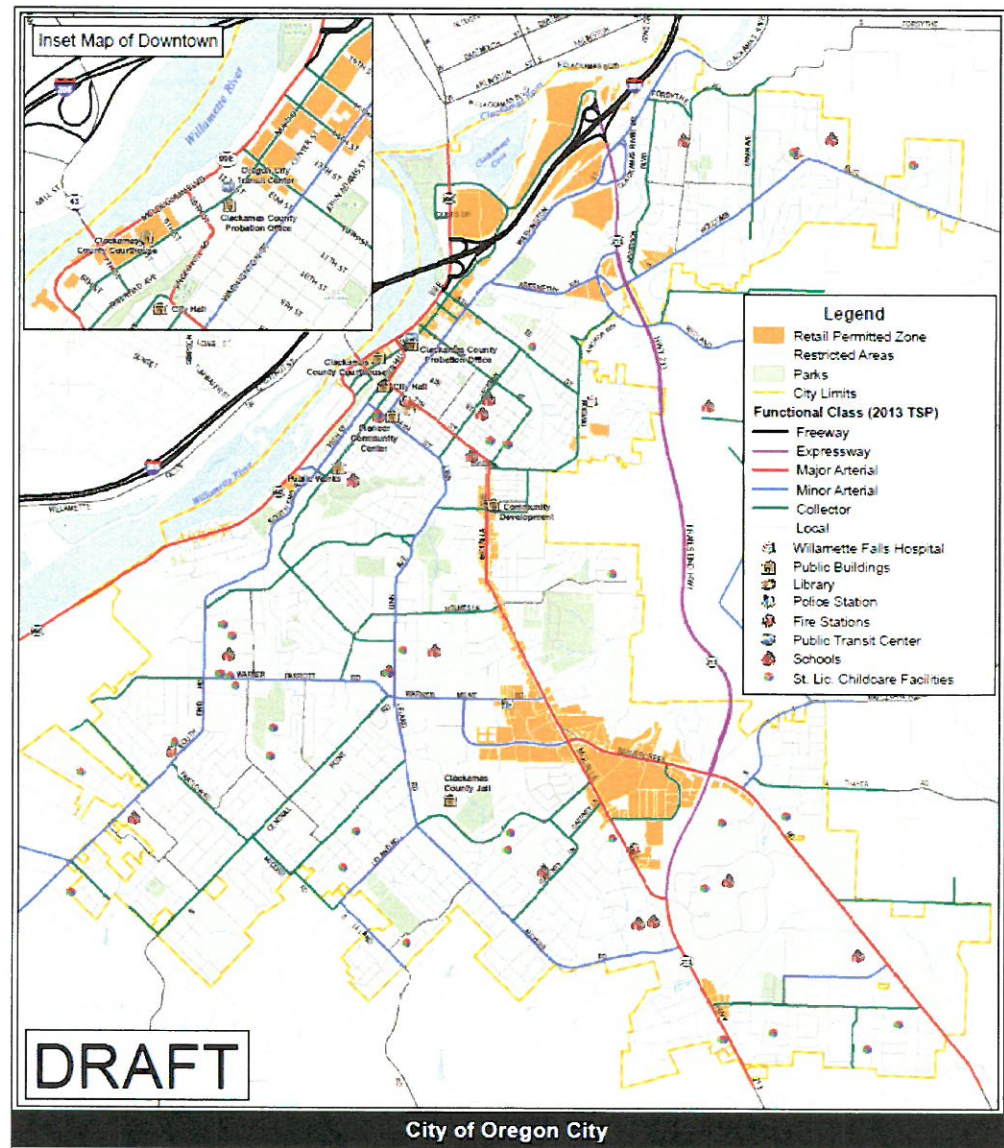
- ▶ Any “R” residential zones
- ▶ Abutting any residential zone unless located on a freeway, expressway, major arterial, minor arterial, or collector functional classification as shown on Figure 8, Multi-Modal Street System, of the Oregon City Transportation System Plan
- ▶ Within 250 feet of any public parks, licensed child care and day care facilities, and public transit centers.
- ▶ Within 1000 feet of a public, private or parochial elementary and secondary school.*
 - ▶ **Definition under state law: A public elementary or secondary school for which attendance is compulsory under ORS 339.020, or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a)*

- ▶ Purple buffers 1000' from
 - ▶ *A public elementary or secondary schools*
- ▶ Blue buffers 250' from:
 - ▶ *public parks, licensed child care and day care facilities, and public transit centers.*



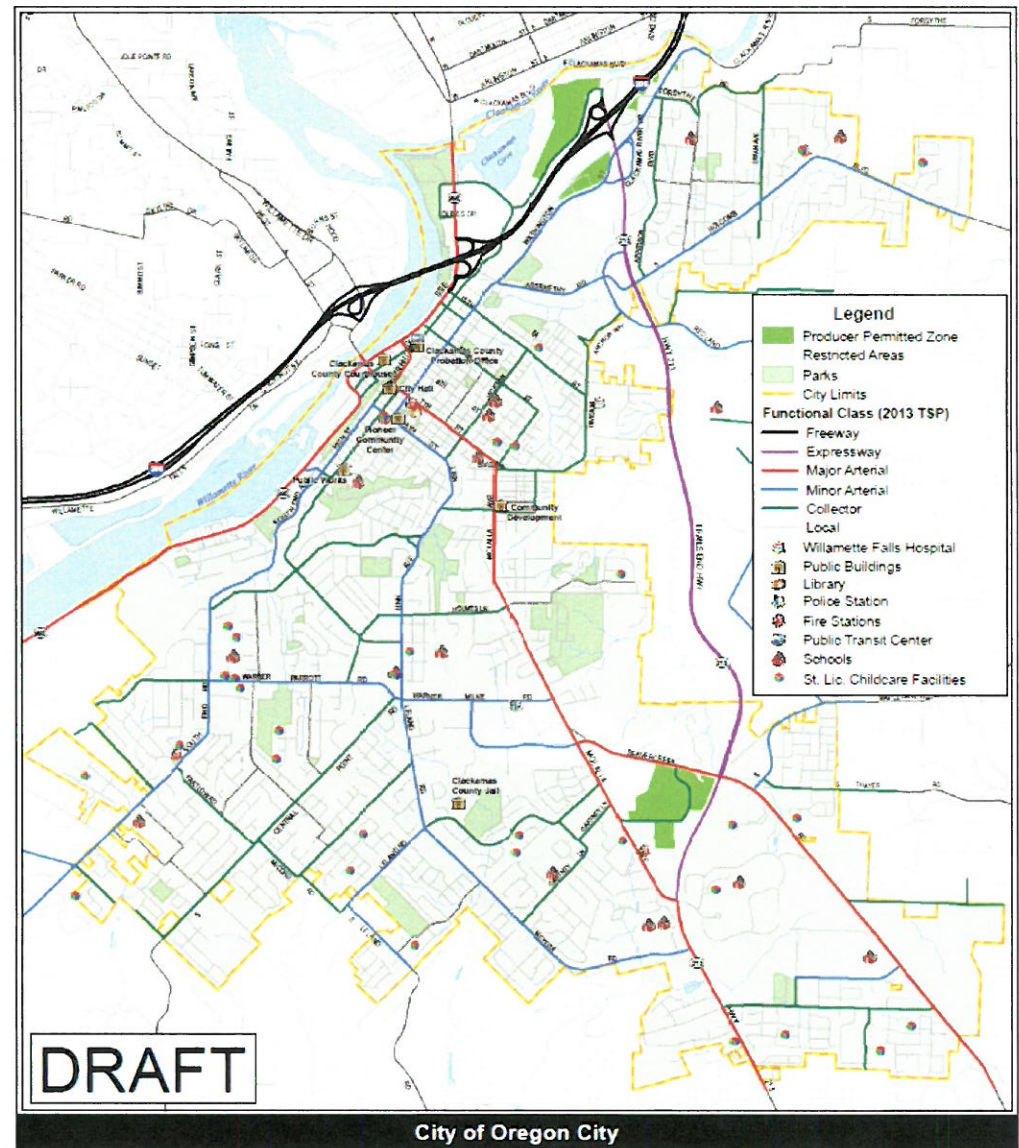
Retail / Dispensaries

- ▶ Permitted in zones that permit retail use
 - ▶ C - General Commercial
 - ▶ MUC - Mixed Use Corridor
 - ▶ MUD - Mixed Use Downtown
 - ▶ HC Historic Commercial
 - ▶ WFDD - Willamette Falls Downtown zones
- ▶ Permitted in zones that already have limitations on retail:
 - ▶ GI General Industrial
 - ▶ MUE Mixed Use Employment
 - ▶ CI - Campus Industrial



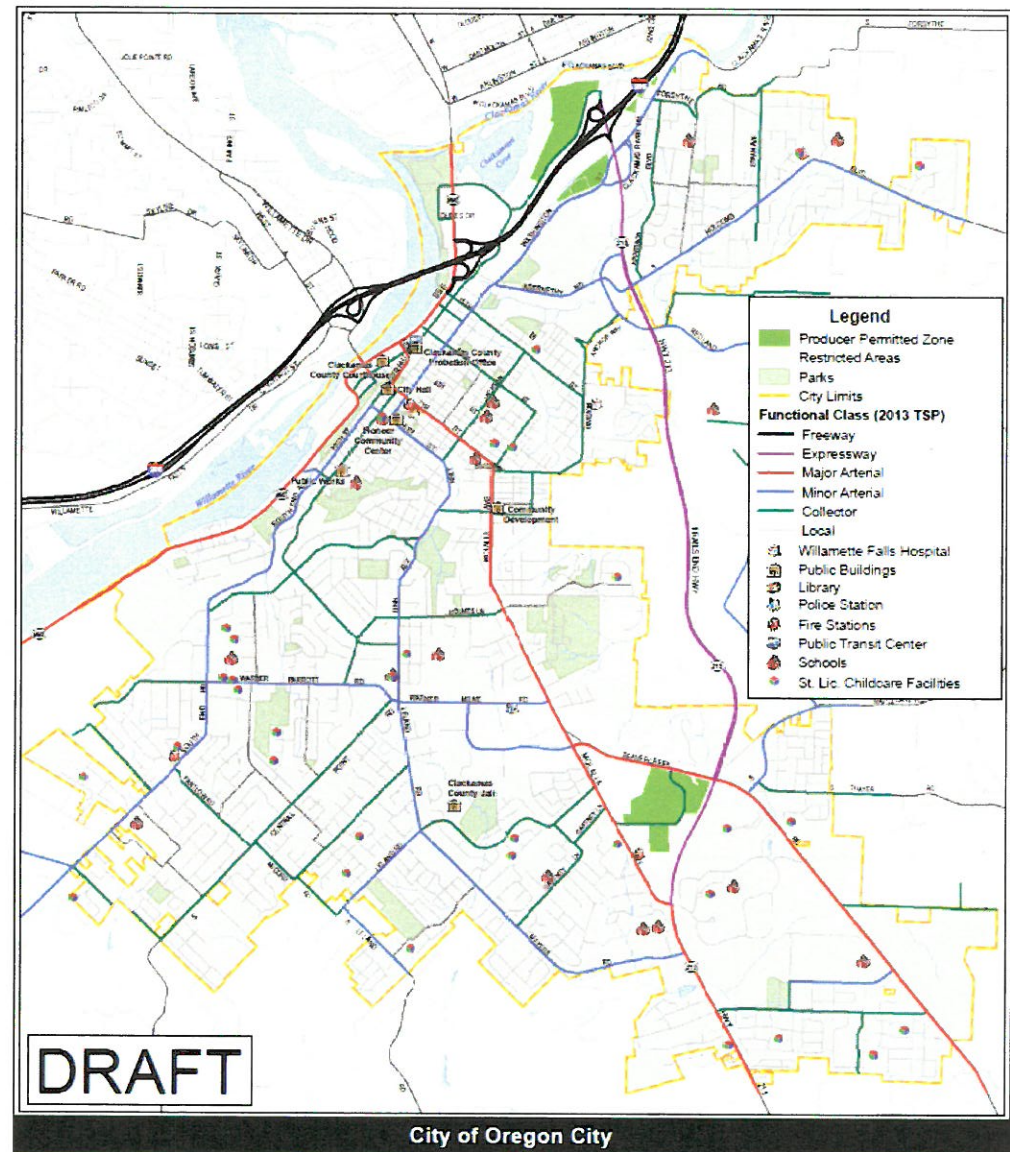
Production

- ▶ Prohibited:
 - ▶ All zones except for GI - General Industrial.
- ▶ Permitted:
 - ▶ In the GI - General Industrial zone.



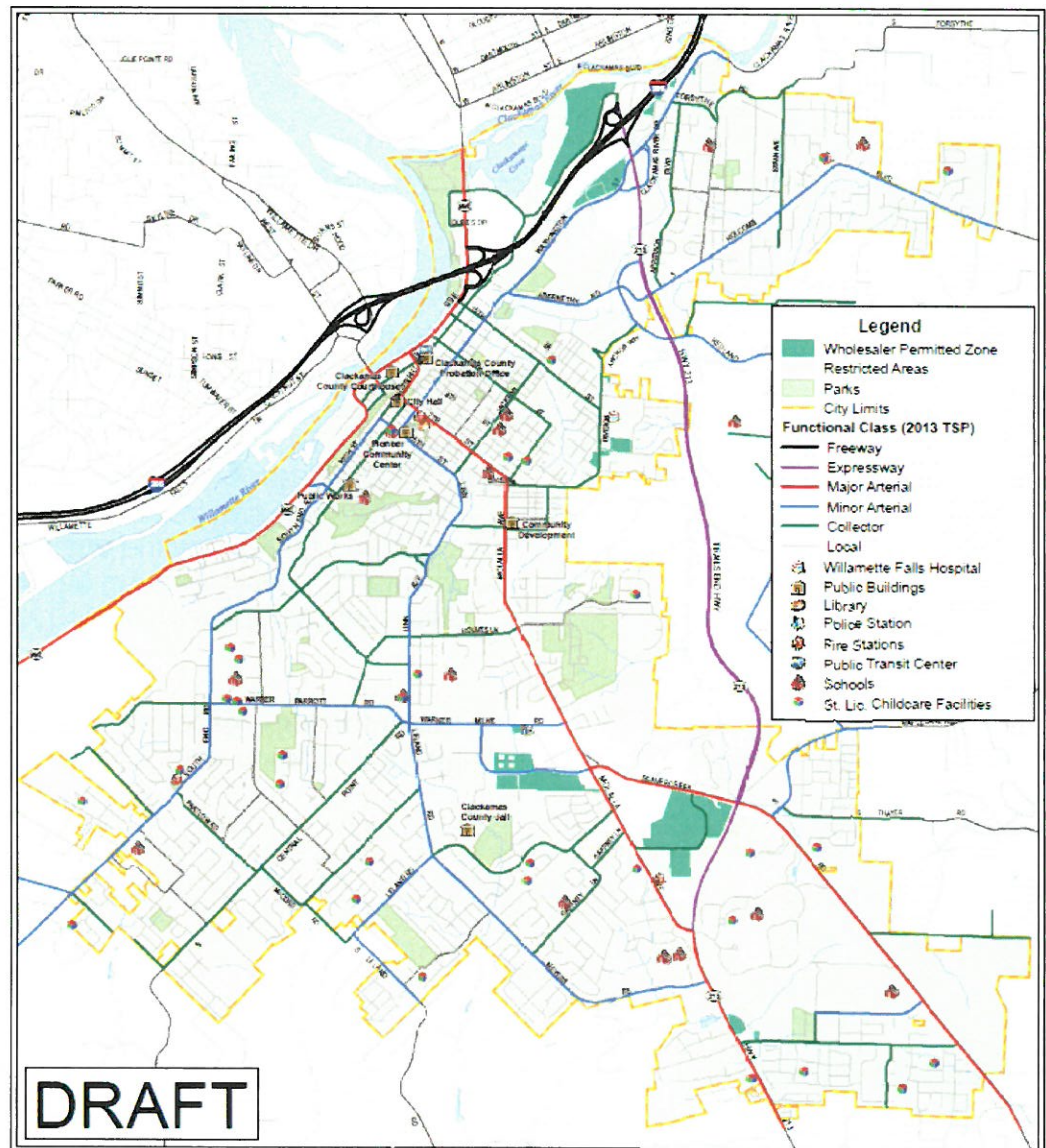
Processing

- ▶ Prohibited:
 - ▶ All “R” Residential zones
 - ▶ All Mixed Use Corridor and Commercial zones
- ▶ Permitted:
 - ▶ GI - General Industrial
 - ▶ MUE - Mixed Use Employment
 - ▶ CI - Campus Industrial



Wholesaling

- ▶ Prohibited:
 - ▶ All “R” Residential zones
 - ▶ All Mixed Use Corridor and Commercial zones
- ▶ Permitted:
 - ▶ GI - General Industrial
 - ▶ MUE - Mixed Use Employment
 - ▶ CI - Campus Industrial



Standards of Operation

1. **Compliance with Other Laws.** All marijuana businesses shall comply with all applicable laws and regulations, including, but not limited to, the development, land use, zoning, building and fire codes.
2. **Registration and Compliance with State Law.** The marijuana business's state license or authority shall be in good standing with the Oregon Health Authority or Oregon Liquor Control Commission and the marijuana business shall comply with all applicable laws and regulations administered by the respective state agency, including, without limitation those rules that relate to labeling, packaging, testing, security, waste management, food handling, and training.
3. **No portion of any marijuana business shall be conducted outside,** including but not limited to outdoor storage, production, processing, wholesaling, laboratories and retail sale.
4. **Hours of Operation.** Operating hours for a marijuana business shall be in accordance with the applicable license issued by the OLCC or OHA.

Standards of Operation - Continued

5. **Odors.** A marijuana business shall use an air filtration and ventilation system that is certified by an Oregon Licensed mechanical engineer to ensure that all odors associated with the marijuana is confined to the licensed premises to the extent practicable. 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. **Doors and windows shall remain closed,** except for the minimum length of time needed to allow people to ingress or egress the building.
7. **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 marijuana business’s exterior refuse containers.
8. **Drive-Through, Walk-Up.** A marijuana business may not have a walk-up window or a drive-through.
9. The facility shall maintain compliance with **all applicable security requirements of the OLCC** including alarm systems, video surveillance, and a restriction on public access to certain facilities or areas within facilities.

Tax Revenue

- ▶ Perm. tax rate on recreational marijuana is **17 percent**. Medical marijuana is still not taxed.
- ▶ Dept. of Revenue estimates 350 licensed retailers in 2015-17 and 550 licensed retailers in 2017-19.
- ▶ Tax revenue distribution:
 - ▶ Common School Fund: **40 percent**.
 - ▶ Mental Health, Alcoholism, and Drug Services Account (ORS 430.380): **20 percent**.
 - ▶ State Police: **15 percent**.
 - ▶ Cities, for local law enforcement: **10 percent**.
 - ▶ Counties, for local law enforcement: **10 percent**.
 - ▶ Oregon Health Authority, for alcohol and drug abuse prevention, early intervention, and treatment services: **5 percent**.
- ▶ Disbursements to cities and counties will be determined by population through July 2017. After this date, disbursements will be determined by the number of licenses issued by OLCC in a given area.
- ▶ Areas that prohibit recreational marijuana facilities won't receive any marijuana tax revenue.
- ▶ Oregon City may impose a local sales tax of **up to 3%**, if voters approve (Res. 16-18).

Additional items for Record

- ▶ Testimony of Dr. Kendall Evans, Oregon City (received 7.22.2016)
- ▶ Summary of Planning Commission Work Session of 7.11.2016 (staff)
- ▶ Revised draft map of potential retail locations (staff)
- ▶ Revised draft map of potential retail locations with buffers (staff)
- ▶ This PowerPoint presentation

Recommendation

- ▶ Staff welcomes further input and testimony on the proposed regulations.
- ▶ Next Planning Commission meeting date is August 8, 2016
- ▶ Staff is recommending that the Planning Commission recommend approval of the Municipal Code text amendments to the City Commission as included in the Exhibits for their consideration.

Next:

- ▶ Website: <http://www.orcity.org/planning/marijuana-regulation-oregon-city>
- ▶ Work Session
 - ▶ City Commission: August 9, 2016 - 5:30 pm
- ▶ Public Hearings:
 - ▶ Scheduled - City Commission: August 17, 2016 - 7:00 pm

Staff Contact: Pete Walter, AICP, Planner

Email: pwalter@orcity.org

Phone: (503) 496-1568

- ▶ Thank you!

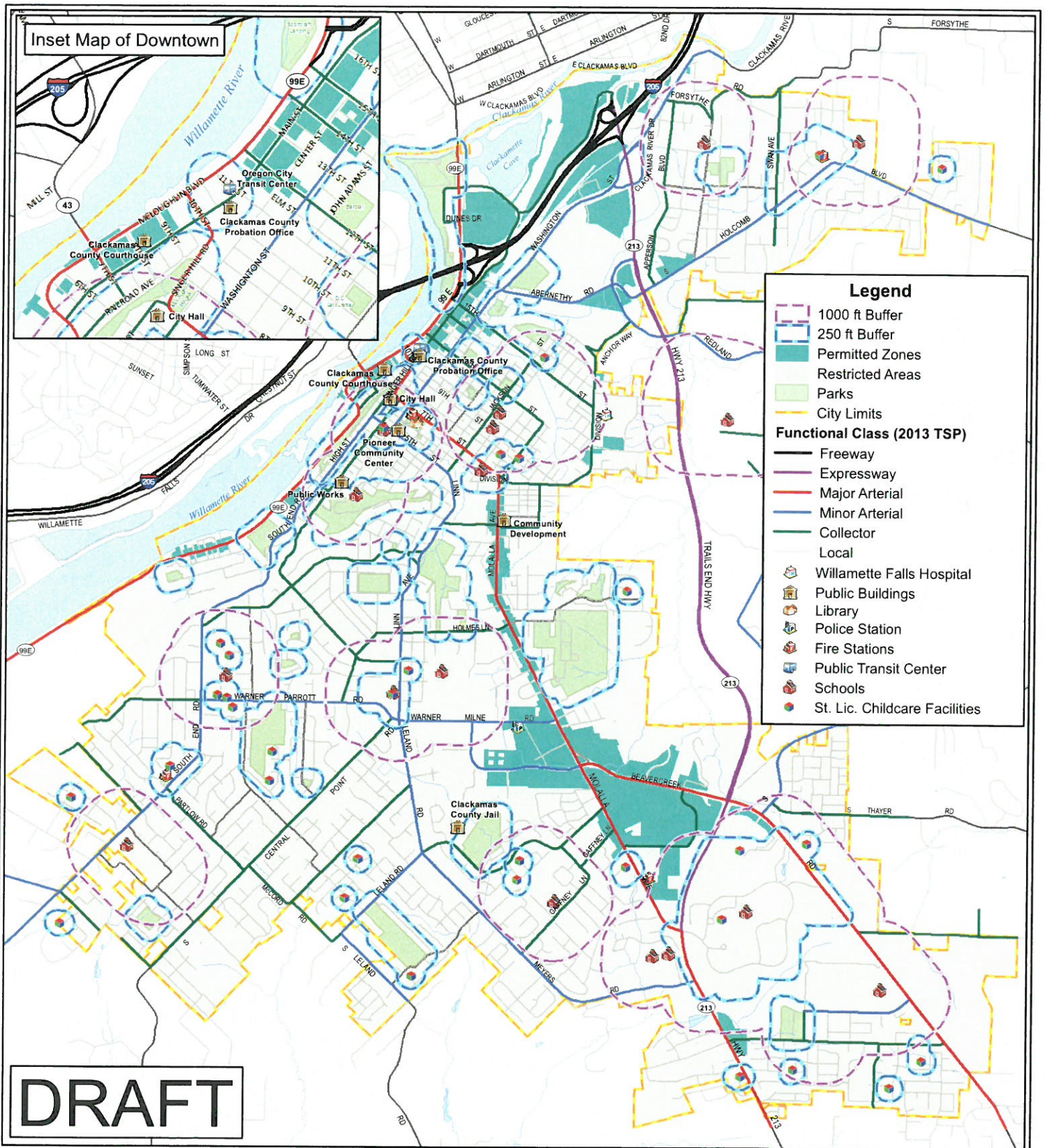
Planning Commission Marijuana Work Session Notes – July 11, 2016

- Clarification that personal consumption is legal. The new regulations only relate to commercial, production, etc., don't have anything to do with regulating personal consumption. Recreational marijuana is regulated by OLCC, medical marijuana is regulated by OSHA. New Oregon City regulations only pertain to marijuana businesses in OC.
- Clarification regarding business vs. personal. How can Oregon City have a regulation on personal indoor only grows if the state allows each property four plants.
- Question for Pete about what he means about treating downtown differently.
- Comment: Too many bars downtown as it is.
- Question: Is it possible for there to be a GI zone with marijuana retail that wouldn't be allowed because the property is already at the 20% retail limit in GI? (yes)
- Question: What was the reason for no production permitted in Campus Industrial zones?
- Dr. Evans environmental concerns about growing marijuana (carcinogens, contamination, cadmium, lead, arsenic in soil). Also concerned about the amount of electricity and water a marijuana grow requires. Concerns about equipment.
- Dr. Evans: You can't treat marijuana as a regular plant because growing marijuana involves contaminants.
- Comment: Oregon City should not miss out on the benefits of creating jobs with marijuana businesses because we are overly cautious/unnecessarily concerned about contaminants that may or may not exist. We have to balance risk vs. reward. Is the small potential for unproven arsenic poisoning worth losing jobs over?
- Comment about jobs that Bullseye Glass creates vs. damage they've done.
- Comment: PC only has authority on zoning and cannot evaluate or regulate possible hazardous materials associated with marijuana (arsenic, cadmium, etc.). Focusing on zoning issues pertaining to marijuana would be a more productive conversation.
- Question about validity of Dr. Evans' claims. Would like to see a source.
- Question about what regulations are in neighboring jurisdictions. Pete pointed out that Clackamas County would generally be much easier to grow in due to agricultural zones.
- Question: What are Gladstone and Milwaukie doing?
- Concerns about buffers – as the crow flies vs. walking. What is the methodology for figuring out the buffers?
- Comparison to NROD buffers (if one corner of the property is in it a property report indicates that the entire property is in the NROD)
- Comment: if someone presented Planning with evidence that their property/building is outside of the buffer, would that be a staff decision to allow them to have a marijuana business? (yes)

ENTERED INTO THE RECORD
DATE RECEIVED: 7/28/16
SUBMITTED BY: Staff
SUBJECT: LE-16-0001

- Clarification of the definition of a laboratory. Would academic/educational labs at Clackamas Community College be permitted if they wanted to have labs testing marijuana for academic purposes?
- Laura asked if we were unable to distinguish between academic labs vs. other labs, would they prefer that laboratories are included or excluded in CI zone? They would prefer that labs are excluded and the ball can be in the applicant's court to show why their lab should be allowed.
- Question: Are there requirements of owners or operators of marijuana businesses such as background checks, US citizen, etc? OLCC regulates, applicants must submit business plan to OLCC before Planning even reviews their Oregon City application.
- Discussion about whether or not allowing a limited number of plants outside under the right circumstances (R-10, big lot, etc.) would be better than forcing grows to be indoors?
- Consideration of adding setbacks for outdoor grows back in the draft code.
- Concerns about hopping fences if plants are outdoors, a setback wouldn't keep anyone from jumping over a fence.
- If grows are allowed outdoors, there will be uncontrolled access
- Concern about property owners using weapons against trespassers.
- Comment: If we are concerned about unauthorized users, then it should be indoors only.
- Laura on outdoor grows: members of the public are concerned about odor
- Concerns about forcing it to be indoors only and kids breathing in odors/vapors in an enclosed space.
- Comment that no one should have a right to impose sight/smell on someone else. "Do what you want to do as long as it doesn't impose anyone else."
- Denyse does not want to smell or see marijuana.
- Comment about other plants which may be considered smelly or offensive but are not regulated.
- Smell would be a code enforcement/nuisance issue, not part of zoning regulations
- Dr. Evans passed around a regulation/definition that Deschutes/Washington County uses.
- Laura commented that it is too vague and from a planning perspective, it is better to have clear standards that we are able to regulate.
- Discussion about animals and odors.
- Issue of access brought up again: a regulated substance should be grown indoors where access can be controlled. If allowed outdoors, there is no guarantee that access is controlled. Unless you can guarantee security, you are providing access. Comparison to leaving out a case of alcohol on your back porch that kids could access.
- Question about the 250' buffer from parks and concern that it is less than the 300' notice requirement.

- 300' from parks may be more consistent since that is the notice requirement.
- Comment that the noticing buffer is 50' bigger than the parks buffer, therefore more transparency is gained.
- Should the 250 be increased to 300?
- Comment that 250' vs. 300' buffer does not make that big of a difference.
- Clarification on exemption of sites that abut residential zones but are on a major street. Does 12th and Washington property qualify for this exemption? (yes)
- Clarification that voters are not voting on indoor vs. outdoor, only whether or not marijuana businesses would be permitted.
- Should there be a buffer between marijuana businesses on arterial streets and the residential zones behind? There is a setback for sites abutting residential zones during site plan and design review process. Many buildings are already existing and may not meet setback/buffer between residential zones.



City of Oregon City

GEOGRAPHIC INFORMATION SYSTEM

Proposed Marijuana Business Regulation Map: Retailer, Wholesaler, Producer & Processor Potential Locations with Buffers

The City of Oregon City makes no representations, express or implied, as to the accuracy, completeness and timeliness of the information displayed. This map is not suitable for legal, engineering, or surveying purposes. Notification of any errors is appreciated.



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SUBMITTED BY:

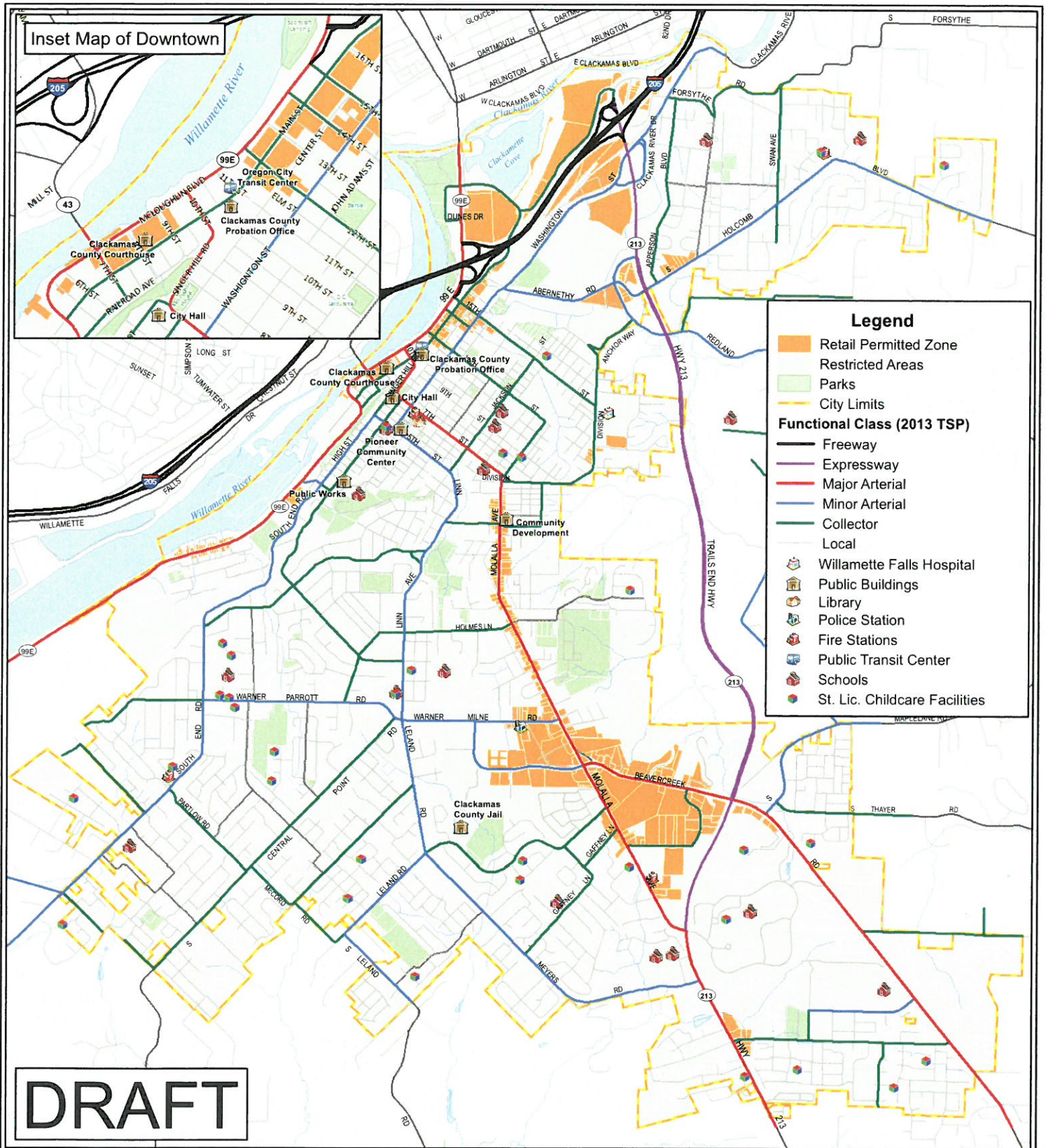
SUBJECT:

City of Oregon City
P.O. Box 3040
625 Center St
Oregon City, OR 97045
503-657-0891 phone
503-657-8629 fax
www.orcity.org



Plot date: July 25, 2016; Plot name: Marijuana Business Regulation Map_with Buffers_8x10P_Draft_20160725.pdf; Map name: Marijuana Business Regulation Map_with Buffers_8x10P_Draft_20160725.pdf

ENTERED INTO THE RECORD
DATE RECEIVED: 7/25/16
SUBMITTED BY: Staff
SUBJECT: LE-16-006/



City of Oregon City

GEOGRAPHIC INFORMATION SYSTEM

Marijuana Business Regulation Map: Dispensary or Retailer Potential Locations

ENTERED INTO THE RECORD

DATE RECEIVED: _____

SUBMITTED BY: _____

SUBJECT: _____

City of Oregon City
P.O. Box 3040
625 Center St
Oregon City, OR 97045
503-657-0891 phone
503-657-6629 fax
www.orecity.org



The City of Oregon City makes no representations, express or implied, as to the accuracy, completeness and timeliness of the information displayed. This map is not suitable for legal, engineering, or surveying purposes. Notification of any errors is appreciated.

Plot date: July 25, 2016; Plot name: Marijuana Business Regulation Map_Potential Retailer_8x10P_Draft_20160725.pdf; Map name: Marijuana Business Regulation Map_Potential Retailer_8x10P_Draft_20160725.pdf

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Date of Meeting

June 25, 2016

Item Number From Agenda

3 LE-16-0001

NAME:

Oregon City Together, Doug Neeley

ADDRESS:

Street: 71614 Parrish Road

City, State, Zip: Oregon City, Oregon 97045

PHONE NUMBER:

503-650-5035

E-MAIL ADDRESS:

intstats@sbcglobal.net

SIGNATURE:

Doug Neeley

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Date of Meeting 7-25-2016

Item Number From Agenda LE 16-0001

NAME: Kendall EVANS

ADDRESS: Street: 13500 S. Wavnock Rd
City, State, Zip: O.C 97045

PHONE NUMBER: 503-657-7071

E-MAIL ADDRESS: dr Kendall.evans@AOL.COM

SIGNATURE: Kendall Evans

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NAME:

~~ERIC~~ ERIC NELSON

ADDRESS:

Street: 7710 SW PINE

City, State, Zip: Tigard OR

PHONE NUMBER:

971-227-1054

E-MAIL ADDRESS:

SIGNATURE:

Eric Nelson

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LE-16-0001

NAME:

Ian Watson

ADDRESS:

Street:

2325 NW Hoyt St.

City, State, Zip:

Portland, Oregon, 97210

PHONE NUMBER:

503-545-7043

E-MAIL ADDRESS:

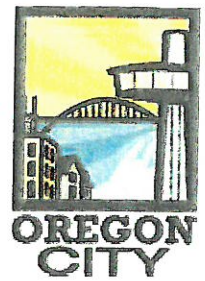
ian@maritimedispensary.com

SIGNATURE:



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Date of Meeting 7/25/16

Item Number From Agenda 1 - PUBLIC COMMENT

NAME: Sam Devo

ADDRESS: Street: 1701 Clackanette Dr.
City, State, Zip: OR City OR 97045

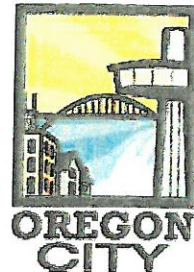
PHONE NUMBER: 503.487.5033

E-MAIL ADDRESS: sam@welovecleanrivers.org

SIGNATURE: [Signature]

2

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Date of Meeting

7-25-16

PUBLIC COMMENT

Item Number From Agenda

RIVERWALK / WW PARK

NAME:

TRAVIS KRUGER

ADDRESS:

Street: 417 BRIGHTON AVE

City, State, Zip: OREGON CITY, OR 97045

PHONE NUMBER:

503-890-2132

E-MAIL ADDRESS:

t.a.kruger@hotmail.com

SIGNATURE:

TK

COMMENT FORM



PLEASE PRINT CLEARLY

- SPEAK INTO THE MICROPHONE AND STATE YOUR NAME AND RESIDING CITY
- Limit Comments to 3 MINUTES.
- Give to the Clerk in Chambers prior to the meeting.

Date of Meeting 7/25/16

Item Number From Agenda _____ PUBLIC COMMENT

NAME: DON SMITH

ADDRESS: Street: 1505 MADISON ST.

City, State, Zip: OREGON CITY

PHONE NUMBER: 971 570 8999

E-MAIL ADDRESS: don.smith,usa@gmail.com

SIGNATURE: [Signature]

COMMENT FORM



PLEASE PRINT CLEARLY

- SPEAK INTO THE MICROPHONE AND STATE YOUR NAME AND RESIDING CITY
- Limit Comments to 3 MINUTES.
- Give to the Clerk in Chambers prior to the meeting.

Date of Meeting 7/25/16

Item Number From Agenda _____ PUBLIC COMMENT

NAME:

Nathan Modlin Modlin

ADDRESS:

Street: 402 Monroe St

City, State, Zip: Oregon City, OR, 97045

PHONE NUMBER:

503 866 3015

E-MAIL ADDRESS:

nathanmodlin@gmail.com

SIGNATURE:

Nathan Modlin

COMMENT FORM



PLEASE PRINT CLEARLY

- SPEAK INTO THE MICROPHONE AND STATE YOUR NAME AND RESIDING CITY
- Limit Comments to 3 MINUTES.
- Give to the Clerk in Chambers prior to the meeting.

Date of Meeting

7/25/16

Item Number From Agenda

Public Comments - MEMBRANE STRUCTURES

NAME:

Curt Degner

ADDRESS:

Street: 19230 Pine Pl

City, State, Zip: O.C OR 97045

PHONE NUMBER:

503-655-4385

E-MAIL ADDRESS:

cdgner@gmail.com

SIGNATURE:

Curt Degner

metal structure

5

COMMENT FORM



PLEASE PRINT CLEARLY

- SPEAK INTO THE MICROPHONE AND STATE YOUR NAME AND RESIDING CITY
- Limit Comments to 3 MINUTES.
- Give to the Clerk in Chambers prior to the meeting.

Date of Meeting

July 25, 2016

Item Number From Agenda

Public Comment

NAME:

Duane Felix

ADDRESS:

Street: 18835 Lafayette Ave

City, State, Zip: Oregon City, OR 97045

PHONE NUMBER:

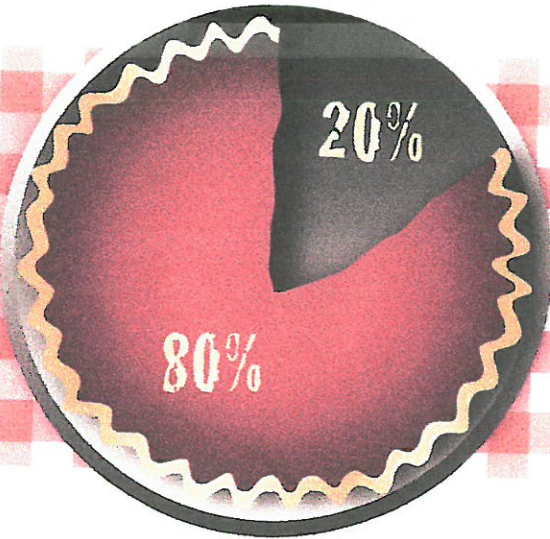
503 557-4628

E-MAIL ADDRESS:

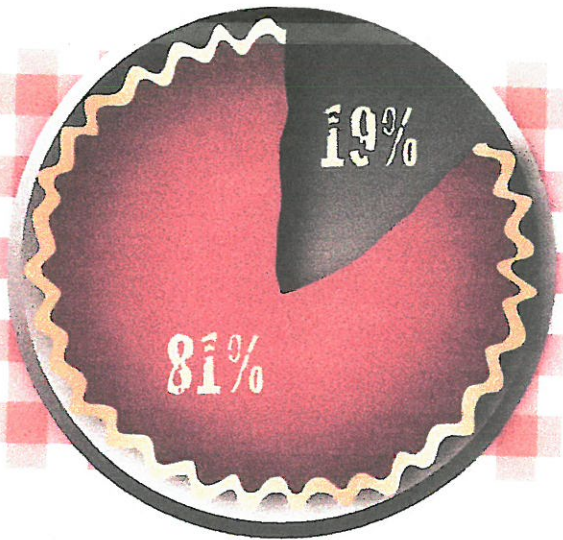
SIGNATURE:

Duane Felix

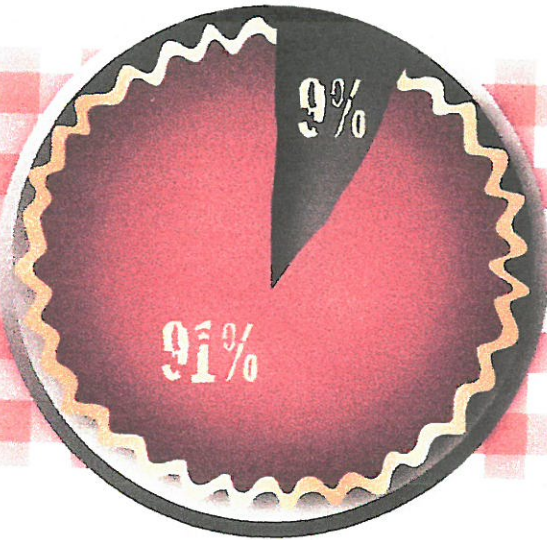
membrane structure



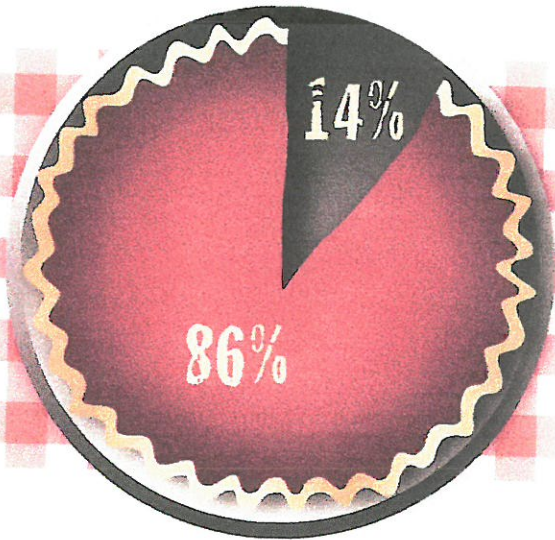
■ OCHS students choose not to drink in a typical month
 ■ OCHS students who drank in past 30 days



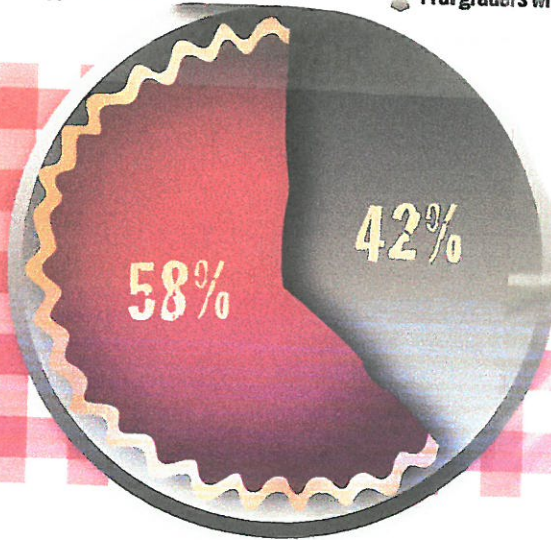
■ 8th graders who choose not to drink
 ■ 8th graders who drank in past 30 days



■ 8th graders who choose not to use pot
 ■ 8th graders who smoked pot in a typical month



■ 11th graders who choose not to use pot
 ■ 11th graders who smoked pot in a typical month



■ More OCHS who disapprove of their friends drinking
 ■ More OCHS who approve of their friends drinking

ENTERED INTO THE RECORD
 DATE RECEIVED: 7/25/16
 SUBMITTED BY: Doug Neeley
 SUBJECT: LE-16-0061

To Pete Walters

IT MAY NOT ALWAYS BE EASY, CONVENIENT OR POLITICALLY CORRECT TO STAND FOR THE TRUTH, BUT IT IS ALWAYS THE RIGHT THING TO DO. ALWAYS.

I have reviewed the recent "Marijuana Application Within EFU District" of Lulu Zhang dated 02/18/2016 and approved 03/08/2016 by the Clackamas County Land Use Planning and Zoning Division under the auspices, guidance, and accountability of the Clackamas County Commissioners (C.C.C.) for 6 grow facilities and 3 processing facilities (Bldg. A, B, and C-Green Factory) located at 13471 S. Leland Rd., Oregon City, Oregon.

In regards to the Clackamas County Regulations- Marijuana Land Use Law-dated March 1, 2016, I have found that the C.C.C. and land use staff arbitrarily or randomly fabricated regulations in complete disregard for current scientific, medical, and environmental evidence, current Federal and State regulations, and logical and reasonable reasoning(1,2,3,7,11)

Enclosed is a partial review of the approved application. First, we need to understand the marijuana plant, its chemistry, and accept the fact that the plant is dangerous and contains many very dangerous materials. It would be prudent to treat this plant and its byproducts as one would treat POISONS that are grown, processed, and sold.(4)

The application had no mention of how the plants would be treated with acids, bases, toxic solvents, heat, open flame, vapor, CO2 and etc. to utilize/capture the active ingredients.

Where does it discuss protective apparel for employees -respirators, eye wear, wash stations, and etc.? I am sure with 40+ parking spaces and buildings labeled "FACTORY" there will be sizable numbers of employees in the processing areas.

Where is the sewer permit for the rest rooms as required by OLCC? "Honey Buckets" are not reasonable nor acceptable. There can be toxic wash water, urine, and fecal matter. How will that be disposed of in a "Honey Bucket"?

Air Quality of Growing and Processing Marijuana—

The Fanteck Fans are only controlling some of the odor of some of the plants. There are NO filters of any kind on the Dayton Fans to control toxic emissions. The required air scrubbers should include Cyclones and High Velocity Particle Collectors. The Dayton Fans are placed 80' and 90' from residences. This is pushing volatile organic compounds, heavy metals, and many carcinogens onto the adjacent residences and creates a toxic air plume that will have a direct effect on properties for large distances in all directions. This is extreme negligence as a result of C.C.C. decisions and policies.(5)

There was no mention of toxic mold, fungus, and bacterial controls, i.e. identification and control of toxic and carcinogenic material emitted from them through the air to adjacent people, livestock, and crops.

There was no mention of controls for chemigation and fertigation. Where are they?

ENTERED INTO THE RECORD
DATE RECEIVED: 7/25/16
SUBMITTED BY: Dr. Kendall Evans
SUBJECT: LE-16-0061

drkendall@AOL.COM

Dr. Kendall Evans

911-221-4634

There was no mention of boilers for heating, CO₂ generation with appropriate controls and standards for excessive "Green House Gas" emissions, solvents, and volatile oils.

There was no mention of hazardous waste management other than OLCC requiring the used Marijuana plants be kept in a locked facility. How will the toxic materials and heavy metals (Cadmium, Arsenic, and Lead) be neutralized and then be disposed of? The two processes currently suggested will either place Organic Cadmium and other materials into the food chain by feeding the toxic waste to animals or releasing more toxins into the air by incineration. These are defective processes with environmental toxic health issues.(11)

The County has erred according to Garnet Cooke, Oregon OSHA Senior Agent and Compliance Officer, in that the 10' setback for the "Green Factory" Bldg. A, B, C more reasonably should be a minimum of 100' to 200'. She also recommends that the pesticide use comply with DOA regulations especially in light of the current criminal case with Avermectin'.(6)

Odor—The reasonable statute should have been "that one property owner may not interfere with another property owners' use and enjoyment of his property". This facility needs to have all the air passing through carbon filters 24 hours a day and the carbon filters changed every 3 months, not once a year. This application is deniable on just odor control! (5)(7)

I also noted a 40+ car parking area. This disturbs over 1 acre of land and I saw no application or plan for discharging storm water.

I saw no discussion referencing light pollution. These security lights are on all night and do have a negative effect on the rural environment in regards to human, animal, and plants. This amount of light has no place in rural residential and farm zones.(8)

Noise and Vibration I would challenge the C.C.C. in their standard of 50 dB for rural areas. The Purdue University study dictates the appropriate standard to be 30 dB and EPA accepted. The application of 50 dB represents a busy urban area with additional sound contributors. This is 4 times the rural noise standard and certainly not applicable to EFU zones. Because of the various motors, fans, and pumps the County standard needs to split the octaves and use the highest dB(A) of every HKZ in order to correctly compensate for excessive vibration in the lower frequencies. This was not done and had it been done the facility would have exceeded the 50 dB limit. No testing of the proposed sound deadening material was shown or done.(9)

SUMMARY

This application should have been denied. After review it has become obvious of the toxic impact the growing and processing facilities .will have on the rural neighbors' health, the environment, and personal enjoyment of private property. It is my opinion the Clackamas County Commissioners are not only liable civilly but criminally for the poisons that will be extruded from these facilities into the air, water, livestock, agricultural products, and people, from not only one but hundreds of these growing and processing facilities.(10)

A moratorium/stop work order must immediately be placed on all current Marijuana growing/processing facilities in progress and all applications in progress be stopped until the preceding environmental questions, concerns, and applicable standards are satisfied.

Looking Out For My Grandchildren,

Dr. Kendall S. Evans

Author's Qualifications

B.S. Brigham Young University-- Biology/Chemistry

D.D.S. Northwestern University School of Medicine and Dentistry

Medical Technologist

Federal OSHA Inspector

Federal OSHA Industrial Hygienist and Compliance Officer

Portland Adventist Medical Staff

Advisory Committee Regulatory Reform for Oregon DEQ and OHA Rulemaking

drkendallelevans@AOL.com

References:

1. Shirley Morgan Clackamas County Marijuana Land Use Law Committee---committee member 2015
2. Clackamas County Marijuana Land Use Regulation 2016
3. Washington State Marijuana Regulations 2016
4. What Chemicals Are in Marijuana and Its Byproducts? Updated 7/8/2009 Medical Marijuana Mayo Clinic August/ 20,2006/ "Marijuana as Medicine"
5. Tom Roick- Senior Marijuana Specialist DEQ
6. Garnet Cooke-- Senior Ag. And Pesticide Compliance Officer Oregon OSHA
7. PSCAA Regulation 1 Section 9.11 Washington State Marijuana Reg.
8. Light Pollution Harms the Environment / 2016 / Physics.fau.edu
9. Noise / Purdue University / Temple University Department of Environmental Engineering/ chem.purdue.edu/Federal Interagency Committee on noise (August 1992)
10. OLCC Marijuana License State Applications total 1572 as of 05/26/2016. Clackamas County grow/process/retail over 140 as of 06/6/2016 Public Record
11. Spokane Regional Clean Air Agency (RCW 82.04.1000) (waste Marijuana can not be burned, not agricultural product, regulated monthly)

In regards to the Clackamas County Regulations- Marijuana Land Use Law –dated March 1, 2016, I have found that the Clackamas County Commissioners and land use staff arbitrarily or randomly fabricated regulations in complete disregard for current scientific, medical, environmental evidence, current or future Federal and State Law, and logical and reasonable reasoning.

Focusing on 840.03 K Hazardous Waste, I recently evaluated an approved Marijuana grow and processing application that had no mention of hazardous waste management other than the OLCC requiring the used Marijuana Plant be kept in a locked facility. How will the toxic materials and heavy metals (Cadmium, Arsenic, and Lead) from the plant be neutralized and then disposed of? The two processes currently suggested will either place Organic Cadmium and other materials into the food chain by feeding the toxic wastes to the livestock or releasing more toxins into the air by incineration. These are defective processes with extreme environmental toxic health issues.

Washington State is in the process of banning incineration of Marijuana toxic/solid waste, and Spokane Clean Air Agency has now banned incineration of Marijuana wastes.

Today, I have been in contact with the Chief Marijuana Compliance Officers of the DEQ, OHA, and OLCC. and the consensus is “ there is inadequate empirical data available to scientifically formulate regulations on toxic/solid waste Marijuana management”. It is reasonable and prudent for Clackamas County to OPT. OUT as stipulated in ORS 475 B. 800 or declare a moratorium on all growing and processing facilities being built and growing and processing facilities applications in process for six months to one year in order for safety and health standards for citizens, livestock, agricultural products, and Marijuana facilities be correctly established for Clackamas County by the appropriate State Agencies

My opinion is that a moratorium/stop work order must be immediately placed on all current Marijuana grow and processing facilities in progress and all applications in progress until the appropriate environmental questions, answers , and applicable standards are satisfied in regards to health of workers, neighbors, environment, and personal enjoyment of private property,

To not do so will make Clackamas County and Clackamas County Commissioners not only liable civilly but possibly criminally for the citizens, livestock, and agricultural products that will be exposed to polycyclic organic hydrocarbons, carcinogens, heavy metals, and other toxins from the Marijuana growing and processing waste management.

06/16/2016

Dr. Kendall S. Evans

Document amended 06/27/2016. Included are the names and phone numbers of the Chief Compliance Officers that I stated in this document that were requested by Commissioner Paul Savas on 06/16/2016. Confidentiality has been waived verbally by all that I am aware of. This is completion of document presented to C.C.Commissioners on 06/15/2016 with additional references below to that document and this one dated 06/16/2016.

1. Tom Roick Senior Marijuana Specialist DEQ 503-229-5696
2. Wendy Wiles Head Administrator DEQ 503-229-5696
3. Jessie Sweet Chief Compliance Officer OLCC 503-872-5250
4. Chris Westfall Compliance Unit Program Manager OHA Public Health Division 971-673-2506
5. Margee Chambers Spokane Regional Clean Air Agency Rule Writer/Air Quality SIP Planner 509-472-4727x114 # very good source person.
6. Bryon Smith DEQ 503-229-5376 (not used as reference)
7. Alexander Evans Environmental Law Law Firm of Blivens and Evans PC

Part III

In regards to the Clackamas County Regulation- Marijuana Land Use Law—dated March 1, 2016. I have found that the Clackamas County Commissioners and land use staff arbitrarily or randomly fabricated regulations in complete disregard for current scientific, medical, environmental evidence, current or future Federal and State Law, and reasonable reasoning and application in adopting regulations (This was corroborated in July 6, 2016 meeting with Staff—Mike McCallister, Planning Director). The staff should have denied Marijuana grow and processing application of Lulu Zhang at 13487 S. Leland Rd., Oregon City (approved 03/08/2016)

This is a continuation of Part I and Part II of approved application evaluation presented to C.C.Commissioners June 15, 2016.

Rain Water Collection: This application should have been denied based on Centers for Disease Control and Prevention--- Rain Water Collection---Water Contamination

1. There was NO mandated regular testing of rain water on approved application. (1.)
2. There was NO separation of drinking water from rain water "Rain water should not enter pipes containing safe drinking water." Also, NO indication where "drinking water and bulk water" will come from "to water edible food (agricultural) plants". Water should be of drinking water quality and should NOT be recycled. (1.2.)
3. "Use rainwater ONLY for plants not eaten, keep rainwater out of mouth and nose. Avoid using rainwater for drinking, brushing of teeth, rinsing or watering plants that you intend to eat. If municipal tap water is unavailable use purchased or bulk water."(2,)
4. "Rainwater is not pure, and carries substantial risk of disease depending on your location, frequency of rain, seasons, how you collect and store the water. Dust, smoke, and soot from the air can be dissolved in rainwater. Dirt and germs can be washed into collected rain water from the roof, especially when rain water follows several days of dry weather. Rainwater can carry bacteria, parasites, viruses, and chemicals"(2.) (heavy metals from Industrial sites— Precision Castparts? Prevailing winds NW to SE.)" that could make you sick, and it has been linked to disease outbreaks."(2.)

Building Construction:

The application did not take into account the High Carbon Footprint of Marijuana growing nor the energy consideration of lighting, cooling both air and water (cooling towers), and heating to constant 70 F. A typical lighting system can use 1000 W. of electricity for 16sq.ft. of production area. Based on Washington's power usage model, 3% of Oregon's electrical power will be used for indoor production of Marijuana.(3.) The best grow practice building would be a structure that handles 100% humidity, temps of constant 70 to 75 F., fine particulate and salts of fungicides,Na,K,P, pesticides, and substances created by various high intensity grow lights.(3.) The building would have heavy non-porous insulation, heavy commercial wiring and plumbing with redundancies. Ventilation should have included treatment for ALL air including CO2 and Odor. Fire sprinklers are indicated. A thin walled all metal powder coated building is not adequate. LED lights should have been mandated in order to reduce electric consumption and Mercury contamination. (3.) My opinion is that double doors are indicated for pressure and odor control. There are other items but there is not enough space to address them in this paper. Again, this application is not qualified and should have been denied for building.

Waste Water Management:

There is no mention of waste water management in the application and treatment. During the interview with the staff on July 6, 2016 it was stated "this (waste water management) was never considered during 2015 committee regulations meetings nor was any outside advise or advisor considered" (such as Washington or Colorado people or agencies contacted)(stated by Mike McCallister and verified by Shirley Morgan). My opinion is this was gross negligence on the counties' part and needs to be addressed before any more building continues at any/all grow sites. I would appreciate a copy of Emergency Regulation in regards to Waste Water Management on agricultural land. Keep in mind the CDC requires "potable water for hand hygiene for workers, as well as washing crops to be processed with quality water. Water should be drinking water quality and should NOT be recycled". (2.) This application should have been denied.

Microbiological Contamination:

There was no mention in the C.C. regulations as well as the application as to how the microbial contamination will be dealt with(4.). This needs to be addressed. Base testing of the adjacent wells, creeks, and people need to be done. This is the responsibility of the county. You should not rely on the state agencies to do the appropriate testing as they are shamefully lacking in responsible testing of products, air, and water (5.)." Government regulators have long ignored the wellbeing of the community and have failed to keep ----- accountable for air and water pollution." (6.)

Observation:

It is my observation that many Oregon voters who initially supported medical and recreational Marijuana reforms are learning that the practical application of that reform created far more serious and insidious public health problems. The voter presumption of a highly regulated drug by highly trained professionals in gleaming white regulated dispensaries compounded by growers and processors in compliance of environmental and labor regulations is anything but the truth. The real truth is very ugly and very different as I have found preparing this paper. (7.)

Conclusions: This application and C.C. Marijuana Law have no merit. The Clackamas County Marijuana Law needs an immediate emergency rewrite while a moratorium is placed on all current building and applications in process.

Clackamas County needs to immediately employ the services of an Industrial Hygienist experienced with Marijuana that can coordinate the various agencies and regulations involved in growing, processing, wholesaling, retailing, and remediation of properties as well as future toxic tort litigation..

I saw no mention of a general liability policy required by the applicants at these sites. I would strongly recommend a 5 million dollar general liability policy with a 5 year tail, verified on an annual basis by OLCC and Clackamas County and permit dependent on every grow, wholesale, retail facility. A 20 million general policy on processing facilities. The applicants are LLCs, facilities will probably have a five year life, and ground water contamination will occur +/- 5 years and the county will be left with the tort litigation, abandoned properties ,and hundreds of angry neighbors.

Dr. Kendall S. Evans

July 21, 2016

References:

1. Centers for Disease Control and Prevention, Rainwater Collection, Last review July 18, 2013.
2. Centers for Disease Control and Prevention, Water Contamination, Last updated March 10, 2010.
3. Environmental Risks and Opportunities In Cannabis Cultivation, Michael O'Hare BOTEC, UC Berkeley, Pages 1-32 September 7, 2013
4. Microbiological Contaminants of Marijuana, J.M.McPartland.1994, Journal of the International Hemp Association 1:41-44.
5. How potent are marijuana edibles? Lab tests yield surprising results., Noelle Crombie, The Oregonian, Updated June 04, 2015 Pages 1-11.
6. Suite Against Precision Castparts Corp., Paul Koberstein, Portland Tribune, July 14, 2016.
7. Legal Marijuana Grows---Growing a Problem, Caoimhin Connell, Forensic Industrial Hygienist, 2015, Pages 1-12.



For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending DCC Title 18 to
Regulate Existing and New Marijuana Production
Registered by the Oregon Health Authority (OHA)
and Declaring an Emergency.

*
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*

ORDINANCE NO. 2016-019

WHEREAS, the Deschutes County Community Development Department (CDD) initiated amendments (Planning Division File No. 247-15-000253-TA) to the Deschutes County Code (DCC) Title 18, Chapter 18.116, Supplementary Provisions to regulate existing and new marijuana production registered by the Oregon Health Authority (OHA); and

WHEREAS, the Deschutes County Planning Commission held public hearings on November 5 and 12 2015, to review the amendments and recommended adoption; and

WHEREAS, the Board of County Commissioners considered this matter after a duly noticed public hearings on December 2, 2015, and May 2, 2016, and concluded that the public will benefit from the changes to Title 18; and

WHEREAS, the Board finds it in the public interest to adopt amendments to the DCC to regulate existing and new marijuana production registered by the Oregon Health Authority (OHA) in conjunction with Deschutes County Code (Title 18) and state law (including HB 3400, SB 1598, and ORS 30.395); now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS
as follows:

Section 1. AMENDMENT. DCC 18.116.340, Marijuana Production Registered by the Oregon Health Authority (OHA), is amended to read as described in Exhibit "A," attached and incorporated by reference herein, with new language underlined and deleted language set forth in strikethrough.

Section 2. FINDINGS. The Board adopts as its findings Exhibit "K," attached and incorporated by reference herein.

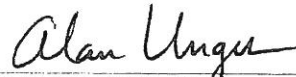
Section 3. EMERGENCY. This Ordinance being necessary for the public peace, health and safety, an emergency is declared to exist and this Ordinance takes effect on its passage.

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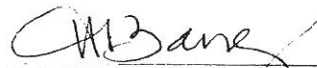
ENTERED INTO THE RECORD
DATE RECEIVED: 7/25/16
SUBMITTED BY: Dr. Kendall Evans
SUBJECT: LE-16-0001

Dated this 1 of June, 2016

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON



ALAN UNGER, Chair



TAMMY BANEY Vice Chair

ATTEST:



Recording Secretary



ANTHONY DEBONE, Commissioner

Date of 1st Reading: 1 day of June, 2016.

Date of 2nd Reading: 1 day of June, 2016.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Alan Unger	✓	—	—	—
Tammy Baney	✓	—	—	—
Anthony DeBone	✓	—	—	—

Effective date: 1 day of June, 2016.

Chapter 18.116. SUPPLEMENTARY PROVISIONS

18.116.340. Marijuana Production Registered by the Oregon Health Authority (OHA)

A. Applicability. Section 18.116.340 applies to:

1. All marijuana production registered by OHA prior to June 1, 2016; and
2. All marijuana production registered by OHA on or after June 1 2016 until the effective date of Ordinances 2016-015, 2016-16, 2016-17, and 2016-18, at which time Ordinances 2016-015 through Ordinance 2016-018 shall apply.

B. All marijuana production registered by OHA prior to June 1, 2016 shall comply with the following standards by September 15, 2016:

1. Lighting. Lighting shall be regulated as follows:

- a. Inside building lighting, including greenhouses, hoop houses, and similar structures, used for marijuana production shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. on the following day.
- b. Lighting fixtures shall be fully shielded in such a manner that all light emitted directly by the lamp or a diffusing element, or indirectly by reflection or refraction, is projected below the horizontal plane through the lowest light-emitting part.
- c. Light cast by exterior light fixtures other than marijuana grow lights shall comply with DCC 15.10, Outdoor Lighting Control.

C. All marijuana production registered by OHA prior to June 1, 2016 shall comply with the following standards by December 15, 2016:

1. Odor. As used in DCC 18.116.330(B)(10), building means the building, including greenhouses, hoop houses, and other similar structures, used for marijuana production or marijuana processing.
 - a. The building shall be equipped with an effective odor control system which must at all times prevent unreasonable interference of neighbors' use and enjoyment of their property.
 - b. An odor control system is deemed permitted only after the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the system will control odor so as not to unreasonably interfere with neighbors' use and enjoyment of their property.
 - c. Private actions alleging nuisance or trespass associated with odor impacts are authorized, if at all, as provided in applicable state statute.
 - d. The odor control system shall:
 - i. Consist of one or more fans. The fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the required CFM; or
 - ii. Utilize an alternative method or technology to achieve equal to or greater odor mitigation than provided by i. above.
 - e. The system shall be maintained in working order and shall be in use.
2. Noise. Noise produced by marijuana production and marijuana processing shall comply with the following:
 - a. Sustained noise from mechanical equipment used for heating, ventilation, air condition, odor control, fans and similar functions shall not exceed 30 dBA measured at any property line between 10:00 p.m. and 7:00 a.m. the following day.
 - b. Sustained noise from marijuana production is not subject to the Right to Farm protections in DCC 9.12 and ORS 30.395. Intermittent noise for accepted farming practices is however permitted.

3. Screening and Fencing. The following screening standards shall apply to greenhouses, hoop houses, and similar non-rigid structures and land areas used for marijuana production and processing:
 - a. Subject to DCC 18.84, Landscape Management Combining Zone approval, if applicable.
 - b. Fencing shall be finished in a muted earth tone that blends with the surrounding natural landscape and shall not be constructed of temporary materials such as plastic sheeting, hay bales, tarps, etc., and shall be subject to DCC 18.88, Wildlife Area Combining Zone, if applicable.
 - c. Razor wire, or similar, shall be obscured from view or colored a muted earth tone that blends with the surrounding natural landscape.
 - d. The existing tree and shrub cover screening the development from the public right-of-way or adjacent properties shall be retained to the maximum extent possible. This provision does not prohibit maintenance of existing lawns, removal of dead, diseased or hazardous vegetation; the commercial harvest of forest products in accordance with the Oregon Forest Practices Act; or agricultural use of the land.
 4. Water. The applicant shall provide:
 - a. A copy of a water right permit, certificate, or other water use authorization from the Oregon Water Resource Department; or
 - b. A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or
 - c. Proof from the Oregon Water Resources Department that the water to be used is from a source that does not require a water right.
 5. Security Cameras. If security cameras are used, they shall be directed to record only the subject property and public rights-of-way, except as required to comply with requirements of the OLCC or the OHA.
 6. Secure Waste Disposal. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA Person Responsible for the Grow Site (PRMG).
- D. All new marijuana production registered by OHA on or after June 1, 2016 shall comply DCC 18.116.340(A-C) and the following standards:
1. Shall only be located in the following zones
 - a. EFU;
 - b. MUA-10; or
 - c. Rural Industrial in the vicinity of Deschutes Junction.
 2. Minimum Lot Area.
 - a. In the EFU and MUA-10 zones, the subject property shall have a minimum lot area of five (5) acres.
 3. Maximum Building Floor Area. In the MUA-10 zone, the maximum building floor area used for all activities associated with medical marijuana production on the subject property shall be:
 - a. Parcels from 5 acres to less than 10 acres in area: 2,500 square feet.
 - b. Parcels equal to or greater than 10 acres: 5,000 square feet.
 4. Setbacks. The following setbacks shall apply to all marijuana production areas and buildings:

- a. Minimum Yard Setback/Distance from Lot Lines: 100 feet.
 - b. Setback from an off-site dwelling: 300 feet.
For the purposes of this criterion, an off-site dwelling includes those proposed off-site dwellings with a building permit application submitted to Deschutes County prior to submission of the marijuana production or processing application to Deschutes County.
 - c. Exception: Reductions to these setback requirements may be granted at the discretion of the Planning Director or Hearings Body provided the applicant demonstrates that the reduced setbacks afford equal or greater mitigation of visual, odor, noise, lighting, privacy, and access impacts.
5. Indoor Production and Processing.
- a. In the MUA-10 zone, marijuana production shall be located entirely within one or more fully enclosed buildings with conventional or post framed opaque, rigid walls and roof covering. Use of greenhouses, hoop houses, and similar non-rigid structures is prohibited.
 - b. In the EFU zone, marijuana production shall only be located in buildings, including greenhouses, hoop houses, and similar structures.
 - c. In all zones, marijuana production is prohibited in any outdoor area.
6. Maximum Mature Plant Canopy Size. In the EFU zone, the maximum canopy area for mature marijuana plants shall apply as follows:
- a. Parcels from 5 acres to less than 10 acres in lot area: 2,500 square feet.
 - b. Parcels equal to or greater than 10 acres to less than 20 acres in lot area: 5,000 square feet. The maximum canopy area for mature marijuana plants may be increased to 10,000 square feet upon demonstration by the applicant to the County that:
 - i. The marijuana production operation was lawfully established prior to January 1, 2015; and
 - ii. The increased mature marijuana plant canopy area will not generate adverse impact of visual, odor, noise, lighting, privacy or access greater than the impacts associated with a 5,000 square foot canopy area operation.
 - c. Parcels equal to or greater than 20 acres to less than 40 acres in lot area: 10,000 square feet.
 - d. Parcels equal to or greater than 40 acres to less than 60 acres in lot area: 20,000 square feet.
 - e. Parcels equal to or greater than 60 acres in lot area: 40,000 square feet.
7. Separation Distances. Minimum separation distances shall apply as follows:
- a. The use shall be located a minimum of 1000 feet from:
 - i. A public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.010, et seq., including any parking lot appurtenant thereto and any property used by the school;
 - ii. A private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;
 - iii. A licensed child care center or licensed preschool, including any parking lot appurtenant thereto and any property used by the child care center or preschool. This does not include licensed or unlicensed child care which occurs at or in residential structures;
 - iv. A youth activity center; and
 - v. National monuments and state parks.
 - b. For purposes of DCC 18.116.330(B)(7), all distances shall be measured from the lot line of the affected properties listed in DCC 18.116.330(B)(7)(a) to the closest point of the buildings and land area occupied by the marijuana producer or marijuana processor.

- c. A change in use of another property to those identified in DCC 18.116.330(B)(7) shall not result in the marijuana producer or marijuana processor being in violation of DCC 18.116.330(B)(7) if the use is:
 - i. Pending a local land use decision;
 - ii. Registered by the State of Oregon; or
 - iii. Lawfully established.
- 8. Access. Marijuana production over 5,000 square feet of canopy area for mature marijuana plants shall comply with the following standards.
 - a. Have frontage on and legal direct access from a constructed public, county, or state road; or
 - b. Have access from a private road or easement serving only the subject property.
 - c. If the property takes access via a private road or easement which also serves other properties, the applicant shall obtain written consent to utilize the easement or private road for marijuana production access from all owners who have access rights to the private road or easement. The written consent shall:
 - i. Be on a form provided by the County and shall contain the following information;
 - ii. Include notarized signatures of all owners, persons and properties holding a recorded interest in the private road or easement;
 - iii. Include a description of the proposed marijuana production or marijuana processing operation; and
 - iv. Include a legal description of the private road or easement.
- 9. Residency. In the MUA-10 zone, a minimum of one of the following shall reside in a dwelling unit on the subject property:
 - a. An owner of the subject property; or
 - b. A person registered with the OHA as a person designated to produce marijuana by a registry identification cardholder, provided that the registration applies to the subject property.
- 10. Annual Reporting. An annual report shall be submitted to the Community Development Department by the real property owner or licensee, if different, each February 1, documenting all of the following as of December 31 of the previous year, including the applicable fee as adopted in the current County Fee Schedule and a fully executed Consent to Inspect Premises form:
 - a. Documentation demonstrating compliance with the:
 - i. Land use decision and permits.
 - ii. Fire, health, safety, waste water, and building codes and laws.
 - iii. State of Oregon licensing requirements.
 - b. Failure to timely submit the annual report, fee, and Consent to Inspect Premises form or to demonstrate compliance with DCC 18.116.330(C)(1)(a) shall serve as acknowledgement by the real property owner and licensee that the otherwise allowed use is not in compliance with Deschutes County Code; authorizes permit revocation under DCC Title 22, and may be relied upon by the State of Oregon to deny new or license renewal(s) for the subject use.
 - c. Other information as may be reasonably required by the Planning Director to ensure compliance with Deschutes County Code, applicable State regulations, and to protect the public health, safety, and welfare.
 - d. Marijuana Control Plan to be established and maintained by the Community Development Department.
 - e. Conditions of Approval Agreement to be established and maintained by the Community Development Department.
 - f. This information shall be public record subject to ORS 192.502(17).
- 11. Prohibited Uses.

- a. In the EFU zone, the following uses are prohibited:
 - i. A new dwelling used in conjunction with a marijuana crop;
 - ii. A farm stand, as described in ORS 215.213(1)(r) or 215.283(1)(o), used in conjunction with a marijuana crop;
 - iii. A commercial activity, as described in ORS 215.213(2)(c) or 215.283(2)(a), carried on in conjunction a marijuana crop; and
 - iv. Agri-tourism and other commercial events and activities in conjunction with a marijuana crop.
- b. In the MUA-10 Zone, the following uses are prohibited:
 - i. Commercial activities in conjunction with farm use when carried on in conjunction with a marijuana crop.
- c. In the EFU, MUA-10, and Rural Industrial zones, the following uses are prohibited on the same property as marijuana production:
 - i. Guest Lodge.
 - ii. Guest Ranch.
 - iii. Dude Ranch.
 - iv. Destination Resort.
 - v. Public Parks.
 - vi. Private Parks.
 - vii. Events, Mass Gatherings and Outdoor Mass Gatherings.
 - viii. Bed and Breakfast.
 - ix. Room and Board Arrangements.

(Ord. 2016-019 §1, 2016)

