

Marijuana Business Regulations

LE-16-0001



City Commission Work Session – August 9th, 2016



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.

Public Process – May 2016 to Present

- ▶ Staff Outreach and Presentations
 - ▶ Citizen Involvement Council
 - ▶ Police Chief's Advisory Committee
 - ▶ Oregon City Chamber of Commerce
 - ▶ Oregon City Business Alliance
 - ▶ Oregon City Downtown Business Association
- ▶ Work Sessions w/ Planning Commission & City Commission
- ▶ 2 Public Open Houses
- ▶ 3 Web-Based Surveys
- ▶ Web-site
- ▶ Numerous maps & on-line GIS app
- ▶ Facebook posts
- ▶ Public Notices
- ▶ Public Hearings

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

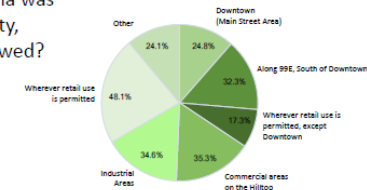
Survey Results

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

Surveys can be taken at: www.orcity.org

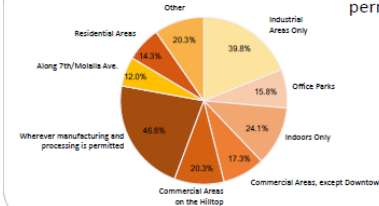
If retail sale of marijuana was permitted in Oregon City, where should it be allowed?

Retail sale of marijuana is defined as an entity licensed by OLCC to sell marijuana items to a consumer in this state.
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.

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.

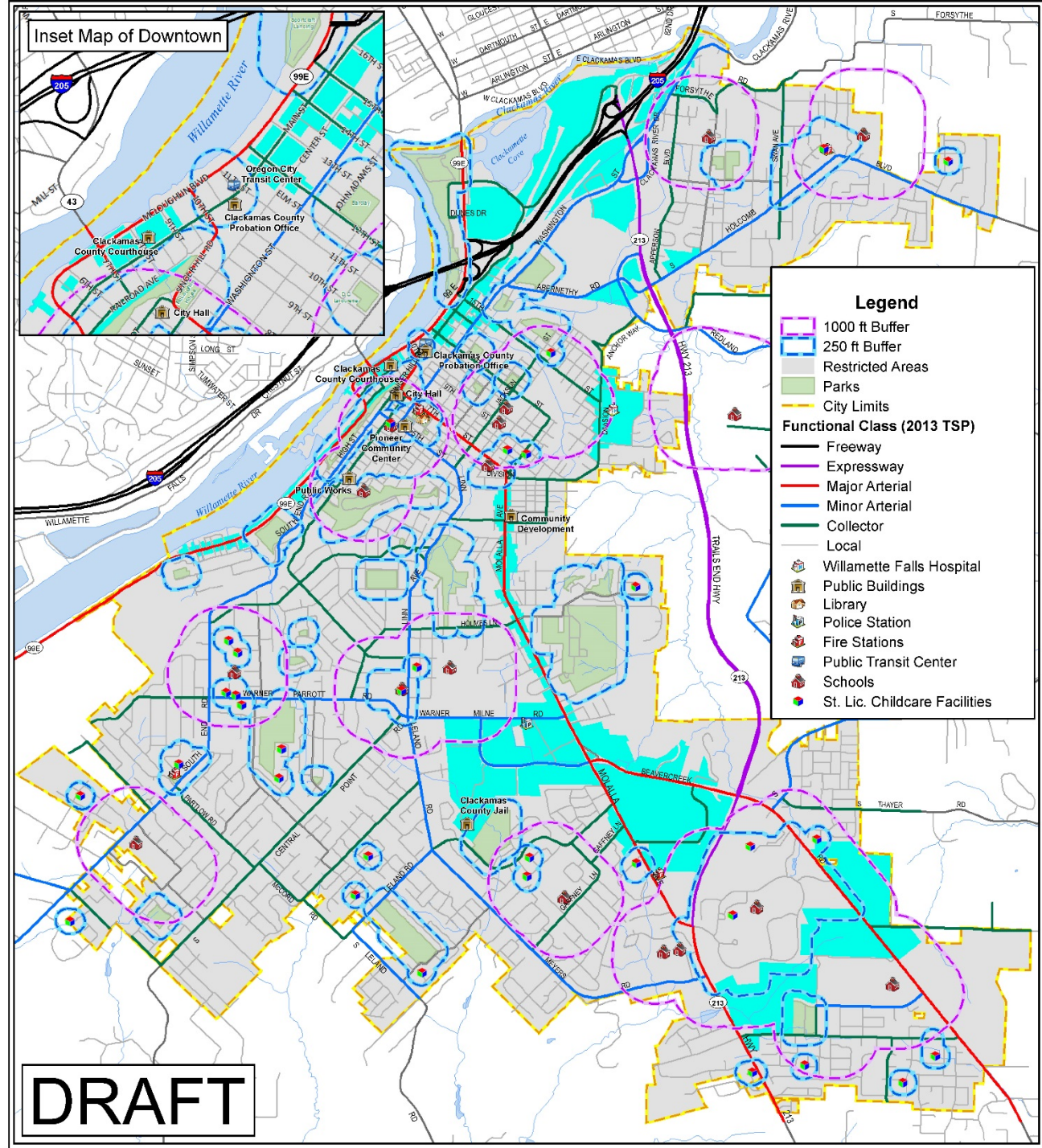
Zoning

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 use in the GI, MUE and CI zones is limited under current code.

School, transit, city parks & childcare buffers

- ▶ Purple buffer = 1000' from schools, CCC
- ▶ Blue buffer = 250' from childcare, city parks, transit center
- ▶ Map indicates all uses combined.
- ▶ Additional restrictions for retail apply. See retail map for details.

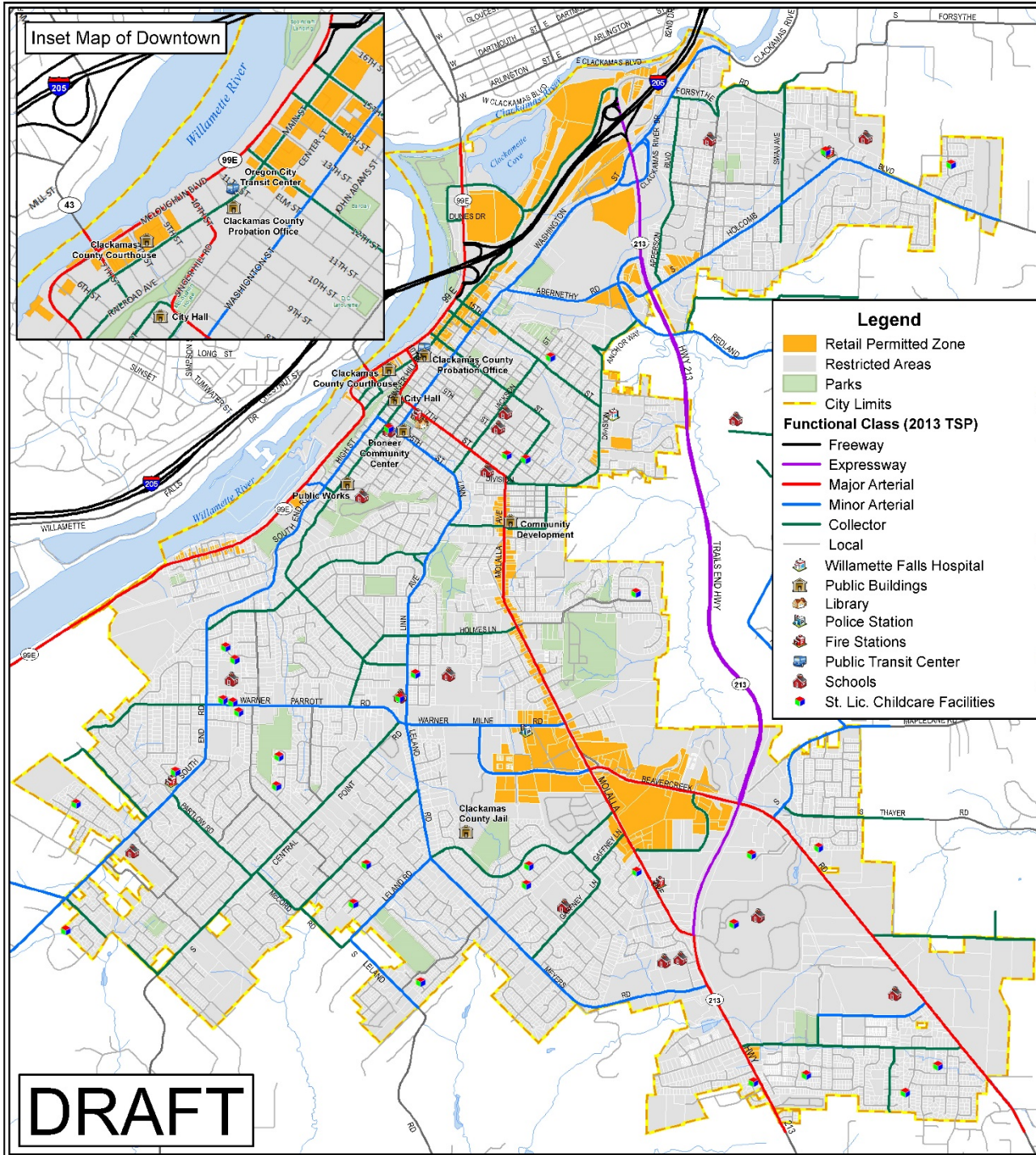


Retail / Dispensaries

▶ Prohibited:

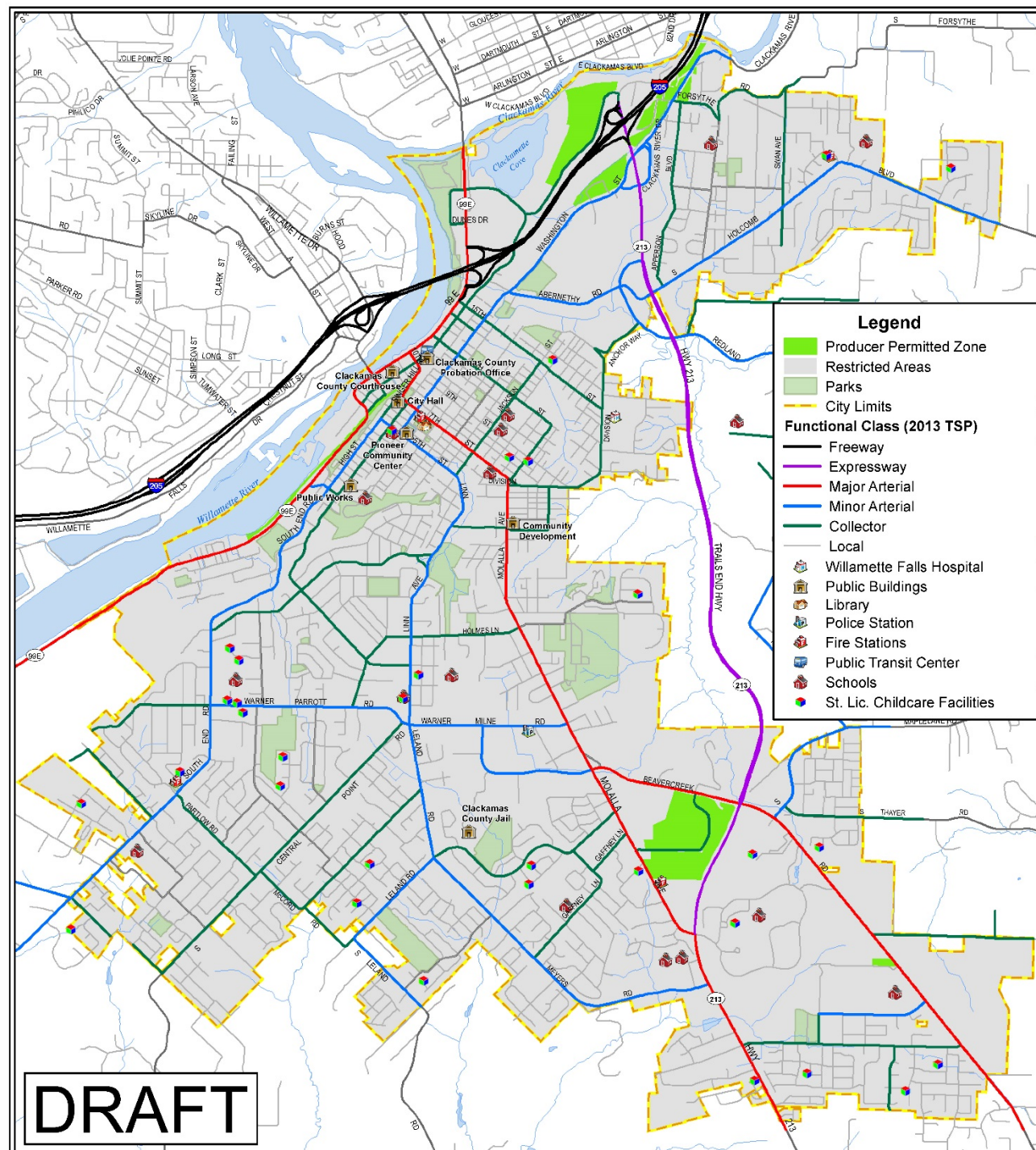
- ▶ Any “R” residential zones
- ▶ Abutting any residential zone unless located on a freeway, expressway, major arterial, minor arterial, or collector functional classification as shown on Figure 8, Multi-Modal Street System, of the Oregon City Transportation System Plan
- ▶ Within 250 feet of any public 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 or the property located at Clackamas County Map 3-2E-09C, Tax Lot 800.*
 - ▶ **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)*
 - ▶ Planning Commission directed staff to add the CCC campus on July 25, 2016.

Retail permitted areas



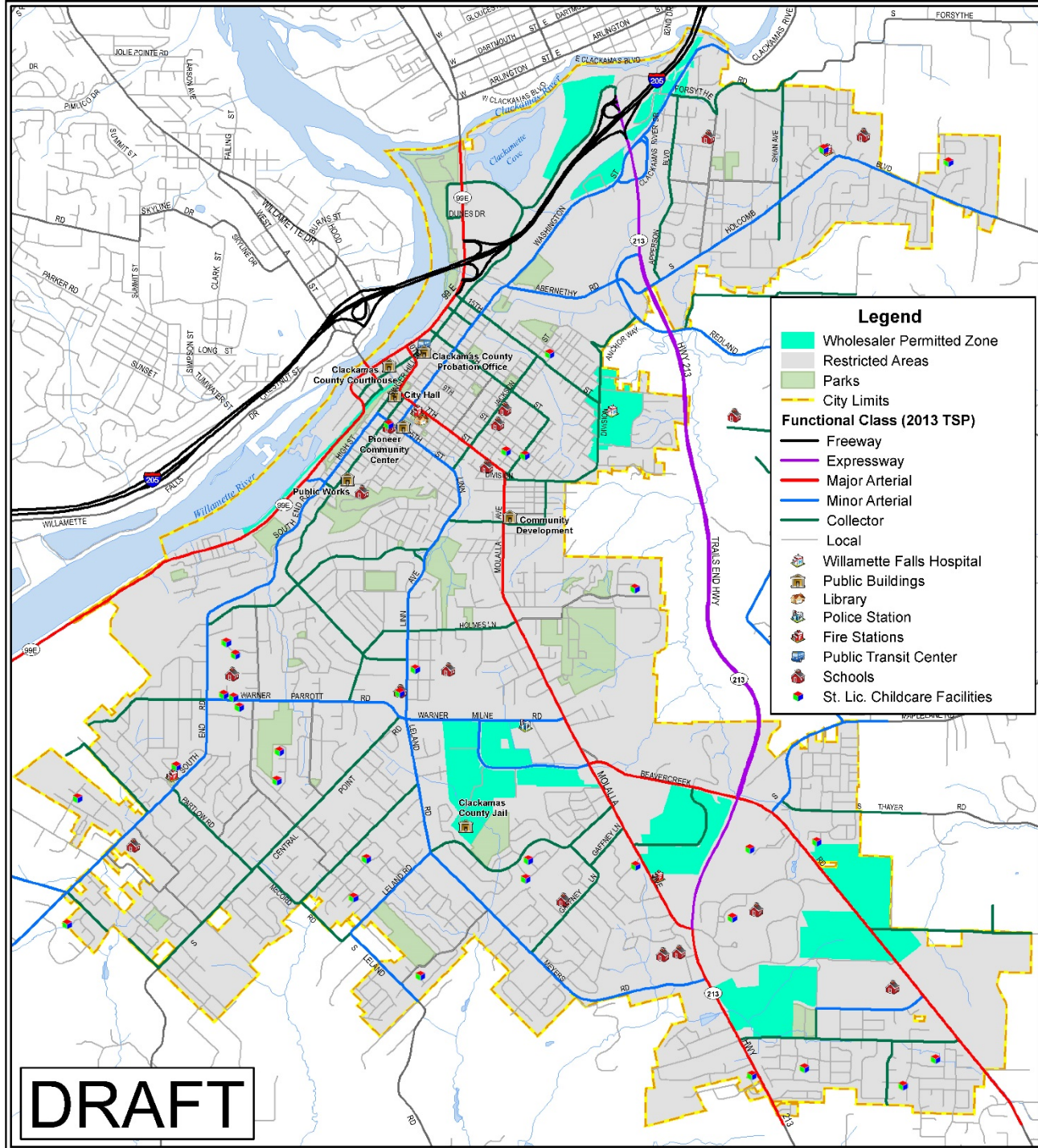
Producer permitted areas

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



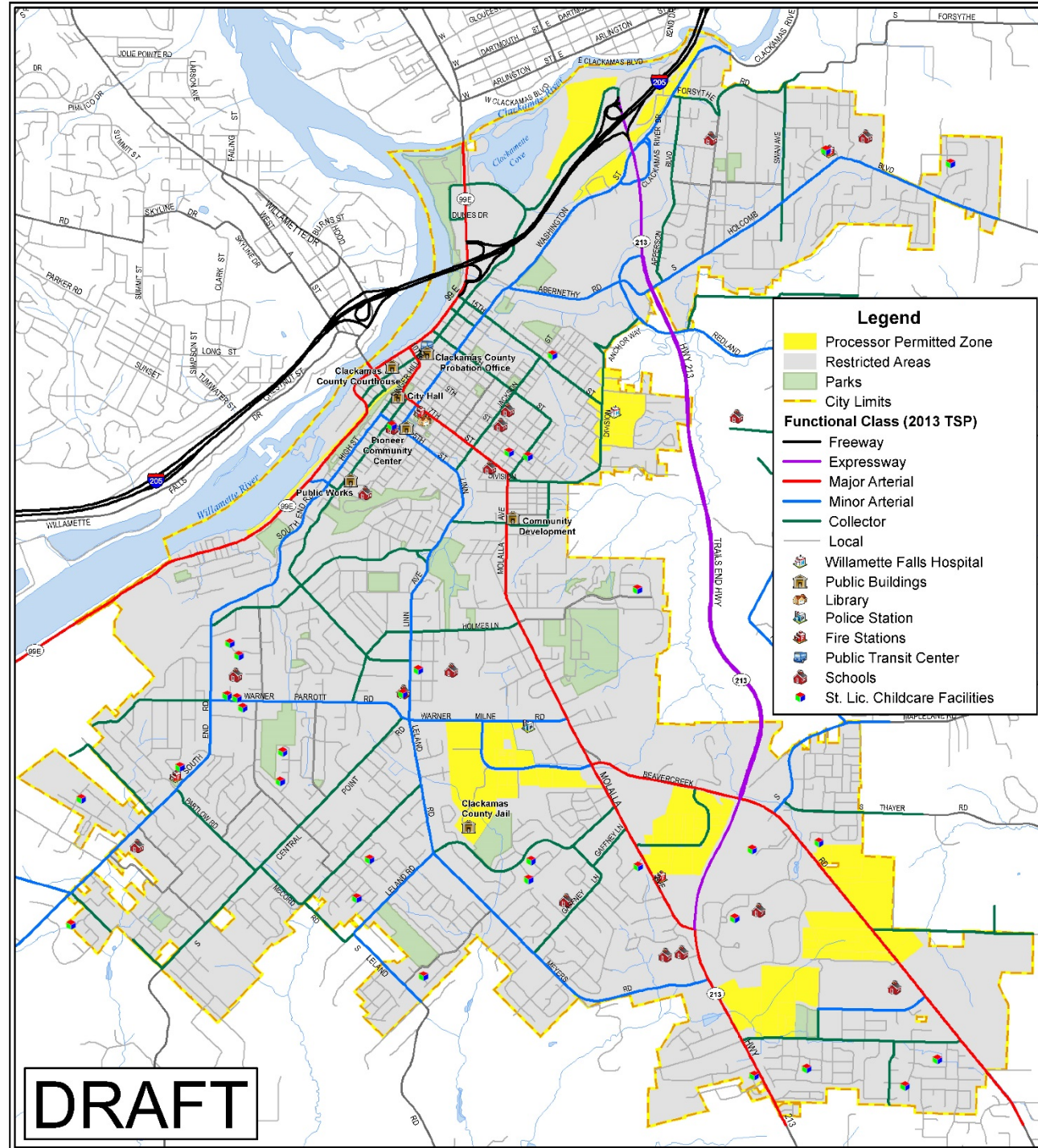
Wholesaler permitted areas

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



Processor permitted areas

- ▶ 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.

Planning Commission

Issues Discussed (July 25 and August 8):

- ▶ Outdoor vs. Indoor cultivation for personal use
- ▶ Odor nuisances
- ▶ Land Use Compatibility Statements process
- ▶ Business Licensing process
- ▶ 1000' buffer around Clackamas Community College
- ▶ Increase the school buffer to 1500 feet?
- ▶ Require 1000' separation between individual retail uses
- ▶ Concerns about retail use in the Canemah National Register District

Clackamas Community College

► Concerns

- Students under 21 attend and live near college
- City should apply same 1000' buffers as for private and public elementary and secondary schools

► Proposed Code:

C. Restrictions on Location: Marijuana Dispensary or Retailer. A marijuana retailer shall not locate:

1. Within 250 feet of any public parks, licensed child care and day care facilities, and public transit centers.
2. Within 1000 feet of a public, private or parochial elementary and secondary school or the property located at Clackamas County Map 3-2E-09C, Tax Lot 800.

Personal Outdoor Cultivation

- ▶ Planning Commission Concerns
 - ▶ Sight, smell, trespass, theft, (Attractive nuisance)
 - ▶ Intent of state law, regulation of personal cultivation
- ▶ Recreational (OLCC):
 - ▶ Allow personal outdoor cultivation (per OLCC regs. = up to 4 plants per residence, out of public view)
- ▶ Medical (OHA):
 - ▶ Patients registered with Oregon Health Authority may have up to 6 mature plants or 16 immature plants
 - ▶ Medical grows in areas zoned residential are allowed 12 plants, unless there were 24 plants designated at that location by Jan. 1, 2015; in that case, all 24 plants are allowed.



Planning Commission Recommendations

Planning Commission voted 4-0-1 to recommend approval of the proposed code with the following additional amendments:

- ▶ Allow outdoor cultivation for personal recreational and medical use per State Law without setback limitations
 - ▶ Recreational - 4 plants per residence per state law, out of public view
 - ▶ Medical - 6 plants per patient or up to 24 plants for growsite if prior to Jan 1, 2015, per state statute, out of public view
- ▶ Require a minimum of 1000' Separation between individual retail uses
 - ▶ Cities cannot restrict retailers from locating more than 1,000 feet from another recreational retailer. ORS 475B.340(2).
- ▶ Prohibit retail use in the Canemah National Register District -
 - ▶ Historic Overlay District (OCMC 17.40) regulates compatibility - not underlying zoning and uses
 - ▶ HRB review required for determination of compatibility for new construction.
 - ▶ HC (Historic Commercial) is a mixed use zone. Retail uses are permitted use in HC, MUC, MUC and WFDD.

What are other cities doing?

Selected cities within the Urban Growth Boundary:

- ▶ Portland - complete licensing and regulatory program in addition to the OLCC licensing process.
- ▶ Gladstone - current ban, ban referred to voters
- ▶ Lake Oswego - regs in public hearing process, ban referred to voters
- ▶ Milwaukie - regs in public hearing process, ban referred to voters
- ▶ West Linn - current ban, ban referred to voters, no regs. drafted yet

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).

Next:

- ▶ Website: <http://www.orcity.org/planning/marijuana-regulation-oregon-city>
- ▶ Public Hearing:
 - ▶ 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!