

**WALDPOR CITY COUNCIL  
AUGUST 13, 2015  
MEETING NOTICE AND AGENDA  
(Amended)**

The Waldport City Council will meet at 2:00 p.m. on Thursday, August 13, 2015 in the City Council Meeting Room, 125 Alsea Highway to take up the following agenda:

1. CALL TO ORDER
2. MINUTES: *July 9, 2015*
3. PUBLIC COMMENTS/PRESENTATIONS:
4. DISCUSSION/ACTION ITEMS
  - A) *Memorandum of Understanding for South Lincoln County Art Mosaic Planter Project*
  - B) *Approval of Resolution Authorizing a Loan for Purchase of Relocated Public Works Facility*
  - C) *Approval of Surplus Property Resolution*
  - D) *Marijuana Update*
  - E) *Library Board Appointment*
  - F) *Planning Commission Vacancies*
  - G) *Other Issues*
5. COUNCIL COMMENTS AND CONCERNS
6. REPORTS:
  - City Manager\**
  - Public Works Director*
  - City Planner*
  - Code Compliance Officer*
7. **EXECUTIVE SESSION:** *Pursuant to ORS 192.660(2)(h): To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.*
8. GOOD OF THE ORDER
9. ADJOURNMENT

The City Council Meeting Room is accessible to all individuals. If you will need special accommodations to attend this meeting, please call City Hall, (541)264-7417, during normal office hours.

\* Denotes no material in packet

Notice given this 10<sup>th</sup> day of August, 2015 - Reda Q. Eckerman, City Recorder

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  - City Manager\**
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\* Denotes no material in packet

Notice given this 6<sup>th</sup> day of August, 2015 - Reda Q. Eckerman, City Recorder

**WALDPORT CITY COUNCIL**  
**JULY 9, 2015**  
**MEETING MINUTES**

1. CALL TO ORDER AND ROLL CALL: Mayor Woodruff called the meeting to order at 2:00 p.m. Mayor Woodruff and Councilors O'Brien, Christenson, Gates, Campbell, Holland and Cutter answered the roll. A quorum was present.

2. MINUTES: The Council considered the minutes from the June 11, 2015 meeting. Councilor Holland **moved** to approve the minutes as presented. Councilor Christenson **seconded**, and the motion **carried** unanimously.

3. PUBLIC COMMENTS/PRESENTATIONS: John Maré, representing the Trails Committee and the Waldport Walkers, addressed the Council, reporting on the status of the recent graffiti problems on the Woodland Trail. He noted that during their regular walk that morning, no new graffiti had been found and they had been pleased to find that the Public Works Department is in the process of replacing the rope bannisters at the switchbacks with metal pipe. Overall, the trail is in excellent condition.

4. PUBLIC HEARING: Mayor Woodruff opened the public hearing for comments on the proposed supplemental budget. City Manager Kemp reviewed the issue of relocation of the Public Works shop, noting that the current shop is located in the tsunami zone and the new facility would be up on Crestline Drive, which is out of the zone. Additionally, the new facility is larger and will also be used to store emergency supplies and provide a command center in the event of a disaster. He had researched possible funding through FEMA, but one of its requirements would be that the current shop location would have to become and remain open space. A letter from Willamette Marine Services, LLC, regarding the proposed 2.23% increase in water and sewer rates, was distributed to the Council. There were no additional comments from the public. Mayor Woodruff then closed the public hearing. A brief discussion ensued. Mayor Woodruff asked if the current use of the public works property would have an impact on future uses. City Manager Kemp responded that a Level 1 environmental study to assess conditions of the property would be prudent. Public Works Director Andry indicated he was not aware of any contamination issues.

5. DISCUSSION/ACTION ITEMS:

A. Consideration of Supplemental Budget Resolutions:

1. Funding Debt Service for the Purpose of Relocating Public Works Facility: The Council considered the resolution. Councilor Cutter **moved** to approve Resolution 1200. Councilor Gates **seconded**, and the motion **carried** unanimously.

2. Amending Budget for FY 2015-2016: Councilor Cutter **moved** to approve Resolution 1201. Councilor Gates **seconded**, and the motion **carried** unanimously.

B. Consideration of Resolution Adopting Water Management and Conservation Plan: City Manager Kemp indicated that the State had approved the Plan in 2014, and it now needed to be approved by the Council. A brief discussion ensued regarding public education efforts, funding a water plant upgrade study, the water curtailment plan, and the current availability of water. Public Works Director Andry noted that the flow in Eckman

Creek is still quite adequate for the City's needs. Councilor Cutter **moved** to approve Resolution 1202. Councilor Holland **seconded**, and the motion **carried** unanimously.

6. COUNCIL COMMENTS AND CONCERNS: Councilor Cutter noted that the traffic bumps at the top of Cedar Street are gone, and drivers are cutting the corner. Public Works Director Andry indicated he would look into their replacement. Mayor Woodruff asked about interest in attending the annual League of Oregon Cities conference. Following a brief discussion, it was determined that Mayor Woodruff, Councilor Holland and City Manager Kemp would be attending.

7. REPORTS: City Manager Kemp noted that, due to the holidays, the departmental reports for July will be included in the August packet. He reported that the community sign is currently being shipped, and it is hoped that it can be installed this month. The City of Yachats has committed \$800 in cash to the mosaic planter project, with a promise for additional monies or in-kind donations in the future. With regard to the Open Space project, the City has received a proposal for a community charrette process, which is scheduled for September 10-12, 2015. There will be a meeting regarding parks and recreation, facilitated by George Dunkel from Special Districts, on July 15 from 9:00 a.m. to 12:00 p.m. Mr. Kemp gave a brief update on legislation regarding recreational marijuana, and also noted the availability of grant monies from NOAA for water resiliency.

8. GOOD OF THE ORDER: No issues.

9. ADJOURNMENT: At 3:21 p.m., there being no further business to come before the Council, the meeting was adjourned.

Respectfully submitted,



Reda Q. Eckerman, City Recorder

APPROVED by the Waldport City Council this \_\_\_ day of \_\_\_\_\_, 2015.

SIGNED by the Mayor this \_\_\_ day of \_\_\_\_\_, 2015.

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Susan Woodruff, Mayor

**Memorandum of Understanding**  
**South Lincoln County Art Mosaic Planter Project**

By and Between

South County Ford Institute Leadership Program Cohort II (“FILP”)

and

City of Waldport (“City”)

This Memorandum of Understanding (MOU) sets for the terms and understanding between the FILP and City with respect to the South Lincoln County Art Mosaic Planter Project.

**Background**

The FILP has been working on creating and installing a series of planters with mosaics and bench structures (“Project”) in three separate locations in South Lincoln County: Seal Rock, Waldport and Yachats. The Ford Foundation will grant funds for completion of the project. In exchange, a recipient community shall show that there is commitment to maintaining the Project.

**Purpose**

This MOU establishes that FILP will apply for a \$5,000 grant from the Ford Foundation. The planters are intended to be initially located in one of the two areas that are identified on the attached aerial photos. Once the Project is completed, the City will assume maintenance. The City reserves the option to transfer maintenance responsibilities to a third party.

**Funding**

This MOU is not a commitment of funds.

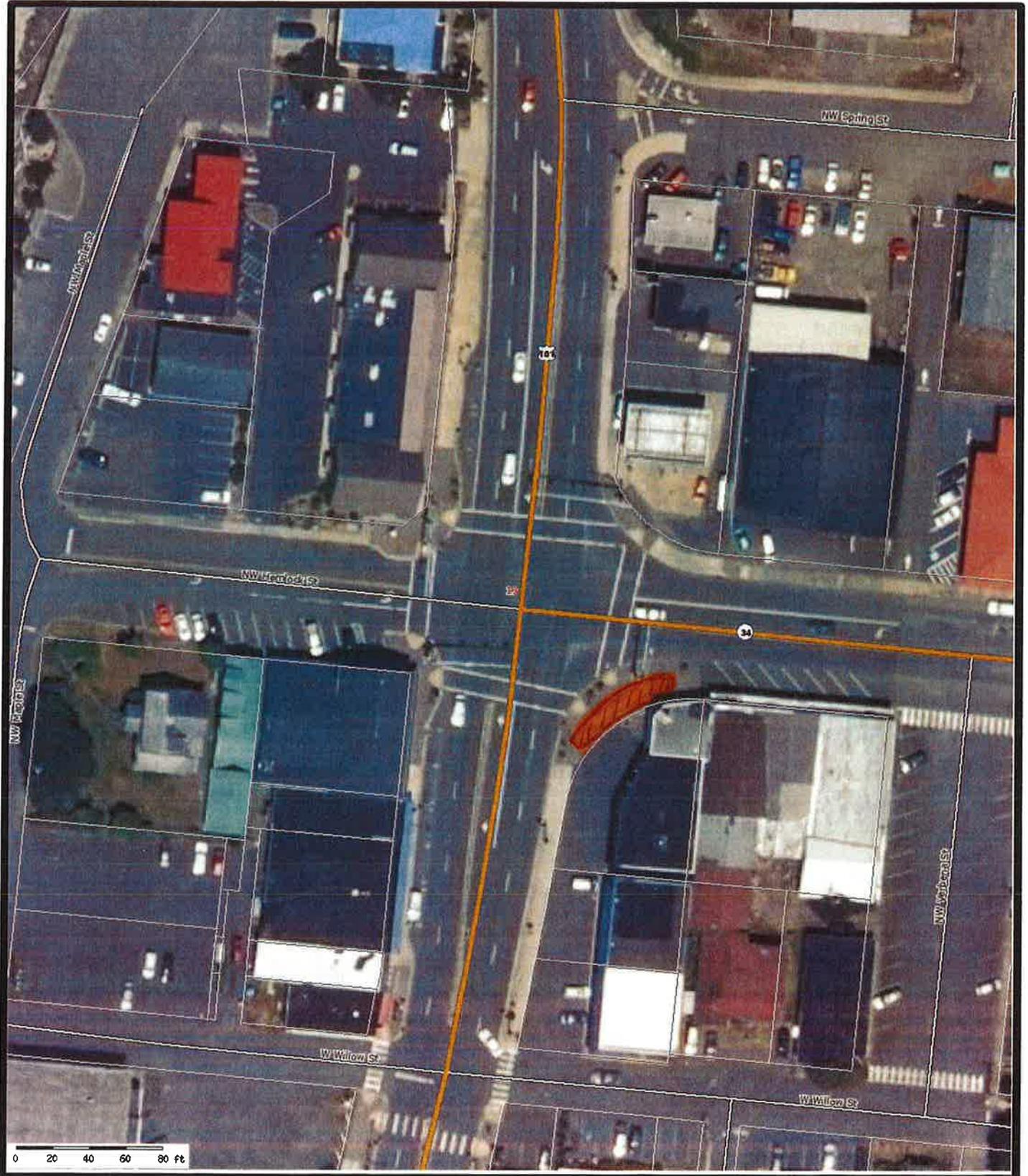
**Duration**

This MOU is at-will and may be modified by mutual consent of the FILP and City. This MOU shall become effective upon signature from the parties and will remain in effect until modified or terminated by any one of the partners by mutual consent. In the absence of mutual agreement for termination this MOU shall end ten years from the date of approval.

The MOU is dated \_\_\_\_\_, 2015, and is executed by:

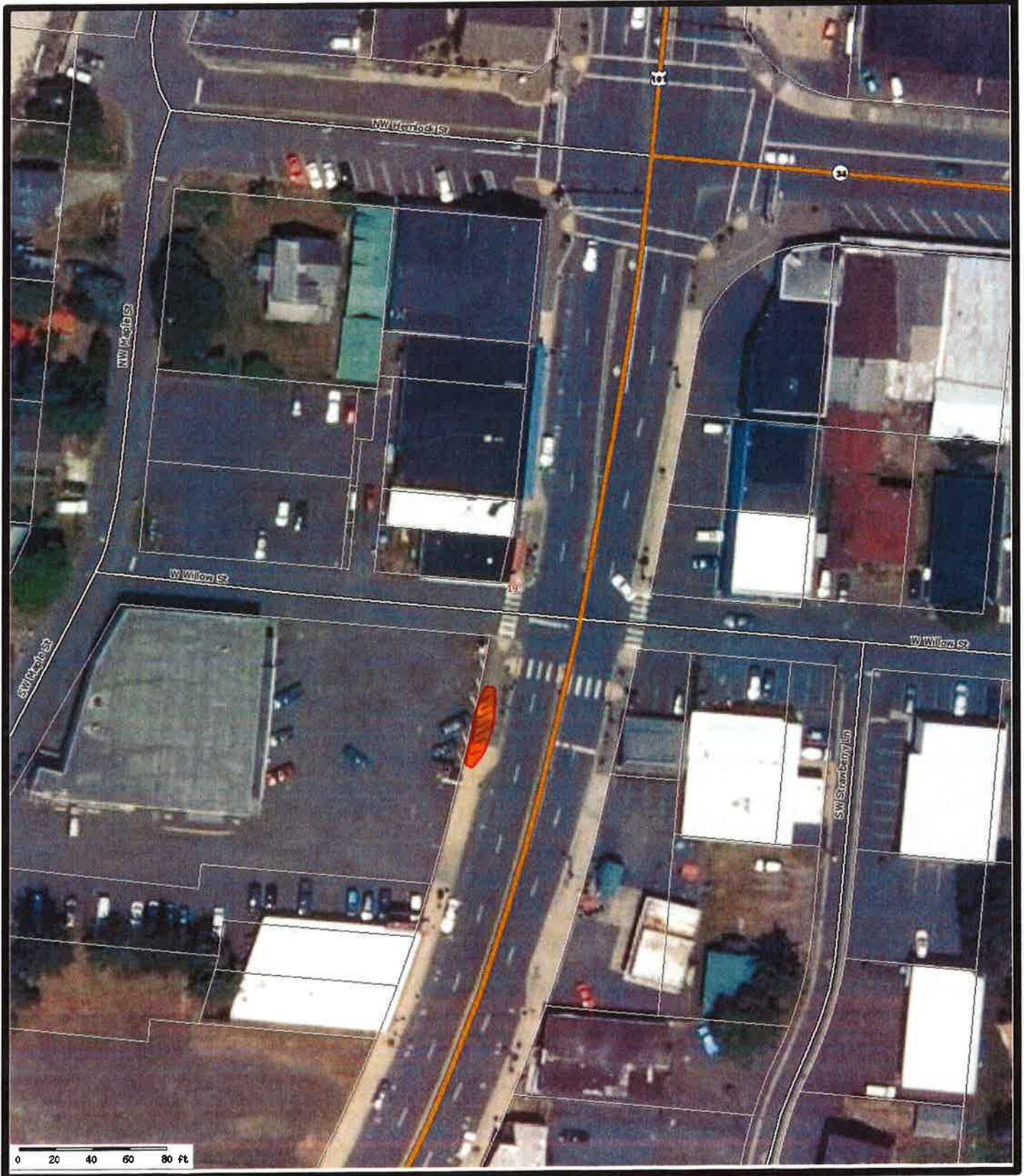
South County Ford Institute Leadership Program Cohort II	City of Waldport
By:	By:
Its:	Its:
Address:	Address:
Telephone:	Telephone:
Fax:	Fax:
E-mail:	E-mail:

# Hwy 101/34 Intersection



Lincoln County government use only. Use for any other purpose is entirely at the risk of the user. This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users should review the primary information sources to ascertain their usability.

# Hwy 101 @ Willow St



Lincoln County government use only. Use for any other purpose is entirely at the risk of the user. This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users should review the primary information sources to ascertain their usability.



## **CITY COUNCIL MEETING AGENDA COVER SHEET FOR DISCUSSION / ACTION**

**TITLE OF ISSUE:** Approval of Infrastructure Finance Authority Loan for Purchase of Relocated Public Works Facility

**REQUESTED BY:** City Manager

**FOR MEETING DATE:** August 13, 2015

### **SUMMARY OF ISSUE:**

The City of Waldport ("City") is in escrow to relocate its Public Works facility to 4028 Ann Street, off of Crestline Drive in the Industrial Park ("Property"). The purchase price is \$625,000. Last month the City Council approved water and sewer base and usage charges to help facilitate a \$500,000 loan, and approved utilizing capital reserves for the \$125,000 down payment.

The State of Oregon Infrastructure Finance Authority ("IFA") is requiring that the City pass a resolution authorizing the loan from the Special Public Works Fund.

### **STAFF RECOMMENDATION or ACTION REQUESTED:**

Approve Resolution of the City of Waldport authorizing a loan from the Special Public Works Fund by entering into a financing contract with the Oregon Infrastructure Finance Authority.
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### **BACKGROUND:**

The City has entered into a Purchase and Sale Agreement for an approximately 11,384 square foot building (constructed in 2000) on 0.67 acres and the adjoining 0.67 acre vacant property, with a financing contingency. The purchase price is \$625,000, assuming a down payment of \$125,000 and a State of Oregon Infrastructure Finance Authority loan with a principal amount of \$500,000 at 3.51 percent interest over 25 years. Payment dates will be each December 1<sup>st</sup>, commencing this year. All of the conditions of the purchase and sale agreement have been met, other than the appraisal, which we anticipate receiving soon.

Attachments: Resolution

## RESOLUTION \_\_\_\_\_

### A RESOLUTION OF THE CITY OF WALDPORT AUTHORIZING A LOAN FROM THE SPECIAL PUBLIC WORKS FUND BY ENTERING INTO A FINANCING CONTRACT WITH THE OREGON INFRASTRUCTURE FINANCE AUTHORITY

The City Council (the "Governing Body") of the City of Waldport (the "Recipient") finds:

- A. The Recipient is a "municipality" within the meaning of Oregon Revised Statutes 285B.410(8).
- B. Oregon Revised Statutes 285B.410 through 285B.479 (the "Act") authorize any municipality to file an application with the Oregon Infrastructure Finance Authority of the Business Development Department ("the IFA") to obtain financial assistance from the Special Public Works Fund.
- C. The Recipient has filed an application with the IFA to obtain financial assistance for a "development project" within the meaning of the Act.
- D. The IFA has approved the Recipient's application for financial assistance from the Special Public Works Fund pursuant to the Act.
- E. The Recipient is required, as a prerequisite to the receipt of financial assistance from the IFA, to enter into a Financing Contract with the IFA, substantially in the form attached hereto as Exhibit A.
- F. The project described in Exhibit A to the Financing Contract (the "Project") is a "development project" within the meaning of the Act which is needed by, and is in the public interest of the Recipient.
- G. Notice relating to the Recipient's consideration of the adoption of this Resolution was published in full accordance with the Recipient's charter and laws for public notification.

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the Recipient as follows:

1. Financing Loan Authorized. The Governing Body authorizes the City Manager to execute the Financing Contract and the Promissory Note (the "Financing Documents") and such other documents as may be required to obtain financial assistance including a loan from the IFA on the condition that the principal amount of the loan from the IFA to the Recipient is not in excess of \$500,000 and the interest rate is 3.51% per annum. The proceeds of the loan from the IFA shall be applied solely to the "Costs of the Project" as such term is defined in the Financing Contract.
2. Security. Amounts payable by the Recipient shall be payable from the sources described in section 4 of the Financing Contract and the Oregon Revised Statutes Section 285B.437(3) which include:
  - (a) The revenues of the project, including special assessment revenues;
  - (b) Amounts withheld under ORS 285B.449 (1);
  - (c) The general fund of the Recipient; or
  - (d) Any other source.
3. Additional Documents. The City Manager is hereby authorized to enter into any agreements and to execute any documents or certificates which may be required to obtain financial assistance from the IFA for the Project pursuant

- to the Financing Documents.
4. Tax-Exempt Status. The Recipient covenants not to take any action or omit to take any action if the taking or omission would cause interest paid by the Recipient pursuant to the Financing Documents not to qualify for the exclusion from gross income provided by Section 103(a) of the Internal Revenue Code of 1986, as amended. The City Manager of the Recipient may enter into covenants on behalf of the Recipient to protect the tax-exempt status of the interest paid by the Recipient pursuant to the Financing Documents and may execute any Tax Certificate, Internal Revenue Service forms or other documents as shall be required by the IFA or their bond counsel to protect the tax-exempt status of such interest.
  5. Reimbursement Bonds. The Recipient may reimburse expenditures for the Project with amounts received from the IFA pursuant to the Financing Contract. Additionally, the Recipient understands that the IFA may fund or reimburse itself for the funding of amounts paid to the Recipient pursuant to the Financing Documents with the proceeds of bonds issued by the State of Oregon pursuant to the Act. This Resolution shall constitute "official intent" within the meaning of Section 1.150-2 of the Income Tax Regulations promulgated by the United States Department of the Treasury with respect to the funding or the reimbursement for the funding of the costs of the Project with the proceeds of the Recipient's loan pursuant to the Financing Documents and with the proceeds of any bonds issued by the State of Oregon pursuant to the Act.
  6. Declaration of Emergency. The Governing Body declares than an emergency exists in order that there be no delay in financing the Project as provided in this Resolution. Therefore, this Resolution shall be in force and effect from and after passage by the Governing Body.

APPROVED by the Waldport City Council this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

SIGNED by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Susan Woodruff, Mayor

ATTEST:

\_\_\_\_\_  
Reda Q Eckerman, City Recorder

**RESOLUTION NO. \_\_\_\_\_**

**DECLARING CERTAIN PROPERTY SURPLUS TO THE CITY'S NEEDS**

WHEREAS, the City of Waldport has certain personal property which has become unnecessary to the operations of the City; and

WHEREAS, the sale of this personal property was included in the Public Works Fund in the FY 2015-2016 Budget as reviewed by the Budget Committee and subsequently adopted by the Waldport City Council;

NOW, THEREFORE, the City of Waldport hereby declares that the following property is surplus to the City's needs:

1 - John Deere 490E Excavator S/N-#FF490EX025971

The City has sold the above-listed property to the first qualified buyer for the price set by the City Manager, with the proceeds to be placed in the Public Works Fund.

PASSED by the Waldport City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

SIGNED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Susan Woodruff, Mayor

ATTEST:

\_\_\_\_\_  
Reda Q. Eckerman, City Recorder



## **CITY COUNCIL MEETING AGENDA COVER SHEET FOR DISCUSSION / ACTION**

**TITLE OF ISSUE:** Marijuana Update

**REQUESTED BY:** City Manager

**FOR MEETING DATE:** August 13, 2015

**SUMMARY OF ISSUE:**

Measure 91 was passed by the voters in November 2014, providing a legal framework for recreational marijuana. The Waldport City Council adopted a taxing ordinance and resolution, also in November 2014. The Oregon State Legislature passed four laws relating to medical and recreational marijuana in its 2015 session. In addition, the Partnership Against Alcohol and Drug Abuse (PAADA) and Lincoln County have guided the educational framework by establishing the Lincoln County Marijuana Council. This report identifies and summarizes various issues.

**STAFF RECOMMENDATION or ACTION REQUESTED:**

Review and discuss laws related to medical and recreational marijuana.

**BACKGROUND:**

**Measure 91**

The City Council adopted Ordinance No. 754 taxing recreational marijuana, and Resolution No. 1191 adopting a zero percent tax rate, at a special meeting on November 3, 2014 (both attached). Measure 91 passed with a majority vote at the State-wide election on November 4, 2014.<sup>1</sup> The measure allows for the possession, manufacture, sale of marijuana by or to adults, subject to state licensing, regulation and taxation.

Below are key dates for consideration, as established by Measure 91:

- The measure is effective on December 4, 2014 – Section 84.
- Possession or growing marijuana at home is allowed on July 1, 2015, as well as all other provisions in Sections 3 to 80 – Section 82.
- The Oregon Liquor Control Commission (“OLCC”) shall adopt rules and regulations for Sections 3 to 70 on or before January 1, 2016 – Section 7(3).
- The OLCC shall begin accepting applications for licenses to produce, process and sell marijuana on or before January 4, 2016 – Section 18.
- The OLCC shall examine or conduct research on the influence of marijuana while driving, and present results or make recommendations to the legislature on whether any amendments to the Oregon Vehicle Code are appropriate on or before January 1, 2017 – Section 7(4).

<sup>1</sup> Lincoln County 62% (12349 yes/7583 no); Waldport Precinct 62% (606 yes/365 no) – Source: Official Abstract of Votes, Dana W. Jenkins, Lincoln County Clerk

2015 Legislative Session

Attached are three documents summarizing the outcome of the recent session:

- Bill Package (Joint Committee on Implementing M91, June 24, 2015)
- Brief Summary (Association of Oregon Counties, June 30, 2015)
- FAQs about Local Regulation (League of Oregon Cities, July 31, 2015)

There is some repetition among the attachments, but there are also many differences due to varying perspective of each piece. Notwithstanding, there are five legislative actions:

- House Bill 3400A (Recreational Marijuana/Omnibus Bill)
- Senate Bill 460A (Early Start)
- House Bill 2041A (Retail Taxation)
- Senate Bill 844A (Miscellaneous)
- House Bill 2668B (Hemp)—only covered in AOC summary

Highlighted on the three-page Joint Committee report are relevant provisions to be aware of. These include i) local government time, place and manner restrictions and enforcing nuisance laws on both recreational and medical marijuana, ii) local government opt-out and taxation provisions, iii) land use and utility usage, iv) accessibility of information about registered medical marijuana processing and dispensary sites (interesting that this does not appear to apply to the recreational side), v) additional local government issues regarding medical marijuana, and vi) sales of recreational marijuana from dispensaries starting October 1, 2015.

Also attached for information is an outline of new Oregon marijuana offenses, prepared by Rob Bovett, Special Prosecutor with the Lincoln County District Attorney's Office (July 2015).

Lincoln County Marijuana Council

The Marijuana Council includes a variety of community stakeholders. Its mission is to "facilitate the safe, responsible and successful inception of recreational marijuana in Lincoln County, Oregon through proactive and unified education efforts." Attached is a draft brochure entitled "Local Guide to Recreational Marijuana," as well as other documents and articles from this process and a document on public health and safety recommendations by the Oregon Coalition Prevention Professionals, distributed at a Marijuana Council meeting.

Attachments: City Ordinance No. 754  
City Resolution No. 1191  
Joint Committee on Implementing M91 – Bill Package  
Brief Summary of 2015 Oregon Marijuana Legislation (Associate of Oregon Counties)  
Frequently Asked Questions About Local Regulation of Marijuana (League of Oregon Cities)  
New Oregon Marijuana Offenses (Lincoln County District Attorney)  
Local Guide to Recreational Marijuana (Lincoln County Marijuana Council)  
Lincoln County Marijuana Council article, bulletins, other information  
Public Health and Safety Recommendations for Retail Marijuana (Oregon Coalition Prevention Professionals)

## Joint Committee on Implementing M91 – Bill Package

### ***Recreational Marijuana (HB 3400A)***

#### *Regulation and Enforcement*

- Oregon Liquor Control Commission (OLCC) is primary administrative agency.
- Local governments may impose reasonable time, place, and manner restrictions and may enforce nuisance laws against marijuana businesses.
- OLCC marijuana enforcement inspectors have broad investigative and enforcement authority including authority to issue citations and seize product.

#### *Licensing and Certification*

- Producers, processors, wholesalers, testing labs, and retailers are required to hold a valid license.
- Primary applicant must be 21 years old and have lived in Oregon for two years.
- No residency required for out-of-state investors, but background checks are required.
- Certification available for propagation of seeds and immature plants.
- Certification available for private research.

#### *Seed to Sale Tracking*

- All marijuana items offered for sale will be tracked and reported through a seed-to-sale system to prevent diversion to the black market.
- OLCC-licensed retailers may only receive and sell marijuana items from OLCC-licensed producers, processors, or wholesalers.

#### *Grow Limits*

- OLCC will establish maximum grow sizes by administrative rule.

#### *Lab Standards and Testing*

- Oregon Health Authority (OHA) must establish lab certification and testing standards to provide consumers accurate information about potency and prevent sale of contaminated product.
- OLCC will issue licenses to labs that meet these standards.

#### *Labeling and Packaging*

- OHA will establish labeling requirements and potency labeling standards.
- OLCC will establish packaging and labeling standards for child-resistant packaging and clear information about ingredients.
- No marketing to youth.

#### *Edibles*

- Edible products will be subject to existing food processing requirements enforced by Oregon Department of Agriculture.

#### *Local Government Opt-out*

- Jurisdictions where more than 55% of voters opposed Measure 91 may opt out through unilateral actions of local elected body.
- Jurisdictions where Measure 91 was supported by at least 45% of the vote, the local body must refer opt-out decisions to the public for approval.
- Local governments that allow all categories of legal marijuana within their jurisdiction are eligible to impose a local tax of up to 3% of the value of recreational marijuana, subject to a community vote allowing such a tax.
- Communities that prohibit marijuana sales will not receive revenue from state and local marijuana taxes.
- Grandfather clause protects existing legal marijuana businesses if a local government opts out of allowing new marijuana businesses.

### *Marijuana Grow Site Opting In*

- Medical marijuana growers may choose to participate in the M91 system. If medical marijuana growers choose to participate in the recreational market, they will be subject to all applicable OLCC regulation.

### *Marijuana Use Prevention Education for Youth*

- OLCC and OHA shall develop and implement an educational program to prevent youth from using marijuana.

### *Land Use*

- Marijuana businesses must comply with applicable land use laws and provide a Land Use Compatibility Statement with an application for an OLCC license.

### *Energy and Water Usage*

- A task force will track energy and water usage and recommend strategies to incentivize efficient use of energy and water.

### *Protection for Workers*

- Workers have whistle-blower protections if they report unlawful conduct and have the right to organize.

### *Criminal Justice Issues*

- Marijuana crimes are reclassified to reduce severity and to create opportunities for expungement.

### **Medical Marijuana (HB 3400A)**

#### **Regulation and Enforcement**

- Oregon Health Authority (OHA) is the primary administrative agency.
- OHA will establish tracking and reporting system to prevent diversion to the black market.
- Local governments may impose reasonable time, place, and manner restrictions and may enforce nuisance laws against marijuana businesses.
- Local jurisdictions and law enforcement may access info about registered processing and dispensary sites to aid enforcement.

#### *Grow Limits and Lawful Possession*

- Medical marijuana grows may not exceed prescribed sizes (96/48/24/12), with phase-in of limits.
- Producers may lawfully possess what they grow.

#### *Lab Standards and Testing*

- Establishes consistent standards to provide consumers with accurate information about potency and protect them from harmful contaminants.

#### *Labeling and Packaging*

- Requires child-resistant packaging, clear information about potency, ingredients.
- No marketing to youth.

#### **Local Government**

- Existing law controls. Dispensaries are legal, moratoriums ended May 2015.
- Opt-out requirements will be tailored based on Measure 91 outcomes, as described above.
- Local governments may not prohibit medical marijuana grows or caregiver processing or delivery to patients.
- Grandfather clause protects existing legal marijuana businesses if a local government opts out of allowing new businesses.

#### **Point of Sale Taxation (HB 2041A)**

- Shifts point of taxation from harvest to sale.

- Imposes statewide single rate flat tax of 17%.
- Oregon Department of Revenue has collection and enforcement authority.

#### **Early Start (SB 460A)**

- Recreational marijuana may be sold from medical marijuana dispensaries beginning Oct. 1, 2015 through Dec. 31, 2016.
- Local jurisdictions may choose to prohibit recreational sale from medical dispensaries.
- Limits sale of recreational marijuana by medical dispensaries to maximum one-quarter ounce.
- Oregon Department of Revenue has collection and enforcement authority.

#### **Technical Fixes (SB 844A)**

##### *Patient's bill of rights*

- Hospice personnel can be designated as an additional caregiver for medical marijuana patients.
- A patient may not be denied inclusion on an organ transplant list exclusively on the basis of marijuana use.

##### *Expunction*

- Minors become eligible to expunge record of unlawful possession, delivery, or manufacture convictions one year after completing sentence.

##### *Medical research task force*

- Establishes task force to study and report on development of the medical cannabis industry.

**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 licenses.
- "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

**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.

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# Frequently Asked Questions About Local Regulation of Marijuana

July 31, 2015

During the 2015 legislative session, the Legislature passed four laws relating to medical and recreational marijuana:

- **HB 3400**, the omnibus bill that amends 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 revises the state tax structure for recreational marijuana;
- **SB 460**, which authorizes early sales of recreational marijuana by medical marijuana dispensaries; and
- **SB 844**, which contains miscellaneous provisions.

Below are answers to some of the most commonly asked questions about the new legislation and its impact on local governments.

## HOME RULE AND FEDERAL LAW

### **I've heard that cities did not need this legislation to regulate marijuana because Oregon is a home rule state. What is home rule?**

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 ordinances without having to obtain permission from the state. City governments in Oregon derive home rule authority through the voters' adoption of a home rule charter as provided for in the Oregon Constitution. All 242 cities in Oregon have adopted a home rule charter. A 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.

### **So how does home rule relate to a city's authority to regulate marijuana?**

Home rule authority allows local governments to enact ordinances regulating marijuana unless preempted by state law. The state Legislature can limit local government authority if it passes legislation that clearly and unambiguously preempts that authority. Because the Legislature recently passed four bills relating to marijuana, it is important to understand how state and local authority interact because that relationship will impact what cities can and cannot do when it comes to regulating marijuana. Specifically, unless clearly preempted, cities can impose regulations in addition to those authorized under HB 3400 under their home rule authority.

### **Isn't marijuana illegal under federal law? If so, how can Oregon legalize it?**

Marijuana is classified under the federal Controlled Substances Act as a Schedule I drug, which means it is unlawful under federal law to grow, distribute, possess or use marijuana for any purpose. Individuals who engage in such conduct could be subject to federal prosecution.

However, the courts thus far have upheld a state's authority to decriminalize marijuana for state law purposes. Oregon did so for medical marijuana in 1998 and for recreational marijuana in 2014. What that means is someone who grows, distributes, possesses or uses marijuana within the limits of those state acts is immune from state prosecution, but might still be subject to federal prosecution if federal authorities desired to do so.

### **Can we as a city council use our home rule authority and vote to re-criminalize marijuana within our city?**

No. A city's home rule authority is subject to the criminal laws of the state of Oregon. As noted above, the OMMA and Measure 91 provide immunity from criminal prosecution for individuals who are acting within the parameters of those laws. Consequently, a council cannot remove the immunity provided by state law.

The immunity provided by state law does not extend to all crimes committed while engaging in marijuana-related activities. For example, the immunity provided by state law does not apply to the crime of driving under the influence. Likewise a city should be able to impose criminal penalties against a person engaging in a marijuana-related activity that violates another law, such as a business license ordinance, zoning or anti-smoking regulations. However, before doing so, a city should work with its city attorney to confirm that the state law immunities do not apply.

## **BANS**

### **Can my city ban the growing, processing, and sale or transfer of marijuana?**

HB 3400 provides a process, explained below, for cities to ban six of the seven types of marijuana activities registered or licensed by the state. Specifically, the six types of marijuana activities that cities can ban under HB 3400 are:

- Medical marijuana processors (preparing edibles, skin and hair products, concentrates and extracts);
- Medical marijuana dispensaries;
- Recreational marijuana producers (growers);
- Recreational marijuana processors (preparing edibles, skin and hair products, concentrates and extracts);
- Recreational marijuana wholesalers; and
- Recreational marijuana retailers.

The seventh marijuana activity registered by the state is the growing of medical marijuana. The bills the Legislature enacted in 2015 are silent on whether a city can ban medical marijuana growers from operating. (State law does expressly place limits on the number of plants and the amount of marijuana that can be located at any particular grow site.) As noted below, the statutes do not indicate that the process in HB 3400 for banning marijuana activities is the exclusive means to do so. Cities considering banning medical marijuana grow sites should talk to their city attorney about whether they can do so under either home rule, federal preemption, or both legal theories.

### **What process does the city need to go through under HB 3400 to impose a ban on the growing, processing, or sale or transfer of marijuana?**

The process that the city needs to go through under HB 3400 will depend on when the city imposes the ban, and whether the city is located in a county that voted against Measure 91 by 55 percent or more.

Before December 24, 2015, cities located in counties that voted against Measure 91 by 55 percent or more (Baker, Crook, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa and Wheeler Counties) can enact a ban through council adoption of an ordinance prohibiting any of the six activities listed above. After that time, and for cities not located in those counties, the city council may adopt an ordinance banning any of the six activities listed above, but that ordinance must be referred to the voters at a statewide general election, meaning an election in November of an even-numbered year.

Under either procedure, as soon as the council adopts the ordinance, it must submit it to the Oregon Health Authority (OHA) for medical bans and the Oregon Liquor Control Commission (OLCC) for recreational bans, and those agencies will stop registering and licensing the banned facilities. In other words, for cities using the referral process, the council's adoption of an ordinance acts as a moratorium on new facilities until the election occurs.

### **Can my city ban the personal use and growing of marijuana?**

HB 3400 does not provide an avenue for cities to ban the personal use and growing of marijuana. As a result, cities interested in enacting such a ban should consult with the city attorney to discuss whether the city can do so under either home rule, federal preemption, or both legal theories.

### **If the city adopts a ban under HB 3400, are existing marijuana activities grandfathered (allowed to remain open)?**

The answer depends upon the type of activity. Medical marijuana dispensaries and medical marijuana processors that have registered with the state by the time their city adopts a prohibition ordinance are not subject to the ban if they have successfully completed a city or county land use application process.

However, HB 3400 does not provide similar protection to any of the other marijuana activities that a city can ban under that legislation. Consequently, recreational marijuana growers, processors, wholesalers and retailers are subject to a ban under HB 3400, even if those businesses are already operating at the time the ban was enacted.

Although some businesses may argue that they have a due process right to continue operating, the status of marijuana as an illegal drug under federal law makes it unlikely that a court would recognize a due process right for a marijuana business owner. However, cities will want to work closely with their city attorney on enforcement of a ban against existing businesses.

### **If my city adopts a ban under HB 3400, will it still get a share of state marijuana tax revenues?**

No. A city that adopts an ordinance prohibiting the establishment of medical or recreational marijuana businesses is not eligible to receive a distribution of state marijuana tax revenues.

**My city requires businesses to obtain a license to operate, and city ordinance provides that the city will not issue a business license if a business operates in violation of local, state or federal law, creating an effective ban on marijuana businesses. Can we continue to enforce that ordinance instead of adopting a ban using the procedure described in HB 3400?**

Yes. The League has taken the position that cities may still adopt and enforce their business license ordinances. However, a city should be prepared to defend its authority to do so.

HB 3400 does not contain a broad express preemption on local government authority.<sup>1</sup> Nothing in HB 3400 makes the ban procedures in the law the exclusive means for prohibiting marijuana businesses. Consequently, the League has taken the position that HB 3400 does not prevent a city from banning marijuana activities through other means, such as adopting or enforcing a business license ordinance that prohibits issuance of a business license to a business operating in violation of local, state or federal law.

However, cities that decide to enforce a business license ordinance instead of adopting a ban under HB 3400 should consult their city attorney about the case of *City of Cave Junction v. State of Oregon*, Josephine County Circuit Court Case #14CV0588, which is currently on appeal before the Oregon Court of Appeals. At issue in that case is whether the city of Cave Junction may enforce its business license ordinance, which prohibits issuance of a business license to a business operating in violation of local, state or federal law.

## **LOCAL TAX**

### **Can my city tax recreational marijuana?**

Yes, as long as the city has not adopted an ordinance under HB 3400 prohibiting marijuana activities in the city.

Under HB 3400, cities may impose up to a 3 percent tax on sales of marijuana items made by those with recreational retail licenses by referring an ordinance to the voters at a statewide general election, meaning an election in November of an even-numbered year.

### **Can my city tax medical marijuana?**

It is unclear whether a city can tax medical marijuana. HB 3400 provides that authority to “impose a tax or fee on the production, processing or sale of marijuana items in this state is vested solely in the Legislative Assembly,” and a city may not adopt or enact ordinances imposing a tax or fee on those activities except for the 3 percent tax on recreational activities discussed above. The legal question is whether that section applies to medical marijuana. Cities interested in taxing medical marijuana should work closely with their city attorney.

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<sup>1</sup> Section 57 of HB 3400 does provide that Measure 91 supersedes any “inconsistent” local enactments. Although some people have suggested that Section 57 is a broad preemption of local authority, the League disagrees. The liquor control act contains similar wording and the Oregon appellate courts have not interpreted that section to be a broad preemption. For more information and analysis of the inconsistency provision in Measure 91, as amended by HB 3400, see the memorandum on the League’s A-Z Marijuana Resources webpage entitled, “Measure 91 and Local Control.”

**My city enacted a tax on medical and recreational marijuana before HB 3400 was enacted. Can we continue to impose that tax now?**

The status of taxes enacted prior to HB 3400 is an open question. HB 3400 provides that, except as provided by law, the authority to “impose” a tax or fee on the production, processing or sale of marijuana items is vested solely in the Legislative Assembly, and a city may not “adopt or enact” ordinances imposing a tax or a fee on those activities. Arguably, cities that have already adopted or enacted a tax prior to the effective date of HB 3400 are grandfathered in. However, the issue is not free from doubt, and cities that decide to collect on pre-HB 3400 taxes should be prepared to defend their ability to do so against legal challenge. Consequently, cities that plan to continue to collect taxes imposed prior to the passage of HB 3400 should work closely with their city attorney to discuss the implications and risks of that approach.

**My city requires all businesses to obtain a license and pay a fee. Does that fee count as part of the 3 percent tax or fee that the city can impose under HB 3400?**

HB 3400 limits a local tax on “the sale of marijuana items” to 3 percent and provides that a city may not otherwise adopt or enact an ordinance imposing a tax or fee on “the production, processing or sale of marijuana items.” Although HB 3400 preempts certain local taxes and fees, a city may be able to continue to impose taxes and fees of general applicability, which are not specific and limited to marijuana businesses, without being subject to the 3 percent limit. Cities considering imposing such a tax or fee should obtain their city attorney’s advice before doing so.

**If my city adopts a ban for some—but not all—marijuana activities, can it still impose a local tax on those activities not banned?**

Probably not. HB 3400 broadly provides that a city that adopts a ban under HB 3400 prohibiting one or more marijuana activities within its jurisdiction “may not impose a local tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated.”

**STATE TAX**

**What is the state going to tax and in what amount?**

Under HB 2041, the state will impose a 17 percent tax on the retail sale of marijuana items, including marijuana leaves and flowers; immature marijuana plants; marijuana concentrates and extracts; marijuana skin and hair products; and other marijuana products.

Early sales of recreational marijuana from medical marijuana dispensaries, however, will be taxed at a higher rate. Starting January 4, 2016, early sales of recreational marijuana from a medical marijuana dispensary will be taxed at a rate of 25 percent.

**How much of the state tax revenues will go to cities?**

Ten percent of the state marijuana tax revenues will be distributed to cities that do not adopt ordinances prohibiting the establishment of marijuana facilities registered and licensed by the state.<sup>2</sup> The revenue will be distributed to cities “[t]o assist local law enforcement in performing its duties” under Measure 91.

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<sup>2</sup> The remaining revenues will be distributed as follows: 40 percent to the Common School Fund; 20 percent to the Mental Health Alcoholism and Drug Services Account; 15 percent to the State Police Account; 10 percent to counties; and 5 percent to the Oregon Health Authority.

The state's Legislative Revenue Office has estimated that the total distribution for cities in the 2015-2017 biennium will be \$440,000, jumping to \$5.92 million in the 2017-2019 biennium.

### **How will the state tax revenues be distributed to cities?**

Until July 1, 2017, the state tax revenue dedicated to cities will be distributed proportionately based on population to those cities that do not adopt prohibiting ordinances. After July 1, 2017, those revenues will be distributed proportionately based on the number of recreational licenses issued for premises located in each city. Fifty percent of the revenue for cities will be distributed based on the number of recreational grower, processor and wholesale licenses issued for a premises in the city. The other 50 percent will be distributed based on the number of recreational retail licenses issued for premises in the city.

## **TIME, PLACE AND MANNER RESTRICTIONS**

### **Does state law place any restrictions on where marijuana businesses can locate?**

Yes. Medical marijuana dispensaries, recreational marijuana retail stores, and medical and recreational marijuana processors that process marijuana extracts cannot locate in a residential zone.

In addition, medical marijuana dispensaries and recreational marijuana retail stores are subject to the following restrictions:

- Neither can locate within 1,000 feet of certain public and private schools, unless the school is established after the marijuana facility.
- Medical marijuana dispensaries cannot locate within 1,000 feet of another dispensary.
- Medical marijuana dispensaries cannot locate at a grow site.

Finally, before issuing any recreational marijuana license, the OLCC must request a statement from the city that the requested license is for a location where the proposed use of the land is a permitted or conditional use. If the proposed use is prohibited in the zone, the OLCC may not issue a license. A city has 21 days to act on the OLCC's request, but when that 21 days starts to run varies:

- If the use is an outright permitted use, 21 days from receipt of the request; or
- If the use is a conditional use, 21 days from the final local permit approval.

### **I have heard that the new legislation ends "card stacking" and puts limits on the amount of marijuana at a medical marijuana grow site. What are those limits?**

Generally, a medical marijuana grow site may have up to 12 mature plants if it is located in a residential zone, and up to 48 mature plants if it is located in any other zone. However, there are exceptions for certain existing grow sites. If all growers at a site had registered with the state by January 1, 2015, the grow site is limited to the number of plants that were at the grow site as of December 31, 2015, not to exceed 24 mature plants per grow site in a residential zone and 96 mature plants per grow site in all other zones. A grower loses the right to claim those exceptions, however, if the grower's registration is suspended or revoked.

In addition to possessing mature marijuana plants, a medical marijuana grower may possess the amount of usable marijuana that the person harvests from the mature plants, not to exceed 12

pounds of usable marijuana per mature plant for outdoor grow sites and 6 pounds of usable marijuana per mature plant for indoor grow sites.

### **I have heard that cities can impose “reasonable restrictions” on medical and recreational marijuana businesses. What does that mean?**

Although the League takes the position that the Legislature has not foreclosed other regulatory options, HB 3400 expressly provides that cities may impose reasonable regulations on the following:

- 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;
- The manner of operation of all four types of recreational licensees, as well as medical marijuana processors and dispensaries; and
- The public’s access to the premises of all four types of recreational licenses, as well as medical marijuana grow sites, processing sites and dispensaries.

The law also provides that time, place and manner regulations imposed on recreational licensees must be consistent with city and county comprehensive plans, zoning ordinances, and public health and safety laws, which would be true of any ordinance imposed by a city.

## **EARLY SALES OF RECREATIONAL MARIJUANA**

### **What are “early sales” of recreational marijuana?**

As of July 1, 2015, people 21 years of age and older can possess limited amounts of recreational marijuana under state law. However, the OLCC has not yet issued licenses for the retail sale of recreational marijuana, and does not expect to do so until sometime in 2016. To allow the OLCC time to implement its licensing system, while also providing an avenue for people to purchase recreational marijuana, the Legislature authorized medical marijuana dispensaries to sell limited quantities of recreational marijuana.

In particular, medical marijuana dispensaries will be able to sell the following to a person who is 21 or older and presents proof of age:

- One quarter of one ounce of dried marijuana leaves and flowers per person per day;
- Four marijuana plants that are not flowering; and
- Marijuana seeds.

### **When will early sales start?**

Medical marijuana dispensaries may begin selling limited quantities of recreational marijuana on October 1, 2015. Sales of recreational marijuana from medical dispensaries currently are set to end on December 31, 2016. At that time, recreational retail facilities likely will be operating and selling recreational marijuana.

### **Can my city opt out of early sales?**

Yes. Under SB 460, a city may adopt an ordinance prohibiting the early sales described above. The city council may adopt the ordinance without referring it to the voters.

### **If my city opts out of early sales, is the city still eligible to receive state marijuana tax revenues?**

Probably. HB 2041 provides that a city that adopts an ordinance “prohibiting the establishment” of marijuana businesses registered or licensed by the state is not eligible to receive state marijuana tax revenues. An ordinance prohibiting early sales under SB 460, however, would not prohibit the establishment of a state-registered or licensed facility. Rather, such an ordinance would merely limit the activities at an existing medical marijuana dispensary. As a result, a city prohibiting early sales should remain eligible to receive state marijuana tax revenues.

### **Can my city impose a local tax on early sales?**

Probably not. Under HB 3400, cities may not adopt or enact ordinances imposing a tax or fee on the production, processing or sale of marijuana items, except as provided in that legislation. HB 3400 further stipulates that cities may refer an ordinance to the voters imposing a tax of up to 3 percent on sales by a person that holds a retail license issued by the OLCC. Because early sales of recreational marijuana will be made by medical marijuana dispensaries, and not by a retail licensee, a city likely is preempted from imposing a tax on early sales of recreational marijuana. However, cities interested in imposing a local tax on early sales should consult their city attorney.

## **TIMELINE**

The following is a summary of key dates that local government officials need to be aware of regarding the effective date and implementation of Oregon’s new marijuana laws:

- **June 30, 2015** – HB 3400 becomes effective. However, many provisions of the law do not go into effect immediately.
- **July 1, 2015** – Personal possession of limited amounts of recreational marijuana is allowed for those 21 or older.
- **October 1, 2015** – Sales of recreational marijuana from medical marijuana dispensaries begin, unless a city has enacted an ordinance prohibiting early sales pursuant to SB 460 § 2(3).
- **December 24, 2015** – City councils that are eligible to adopt a prohibition on marijuana activities without a voter referral must have adopted the prohibition by this date.
- **January 1, 2016** – Most amendments to Measure 91 go into effect. In addition, after this date, medical marijuana growers may apply for an OLCC license to grow recreational marijuana at the same site.
- **January 4, 2016** – The OLCC must approve or deny recreational license applications as soon as practicable after this date (HB 3400 § 171). In addition, medical marijuana dispensaries engaging in early sales of recreational marijuana must begin collecting a 25 percent state tax on those sales.
- **March 1, 2016** – Most amendments to the OMMA go into effect.

- **November 8, 2016** – Next statewide general election. Cities may refer measures on prohibition of marijuana activities and measures on local taxes at this election.
- **December 31, 2016** – Early sales of recreational marijuana from medical marijuana dispensaries end.



## **New Oregon Marijuana Offenses**

**July, 2015**

**AOC**  
Association of  
Oregon Counties

Summary

Unlawful possession of marijuana

Person under 21 (see also Marijuana MIP below)

Leaves, stems, flowers

< 1 ounce	Viol	ORS 475.864(3)(c)
1 to 8 ounces	B Misd	ORS 475.864(3)(b)
8 ounces or more	A Misd	ORS 475.864(3)(a)

Products

16 ounces or less of solid or 72 ounces or less of liquid	B Misd	ORS 475.864(4)(b)
More than 16 ounces of solid or more than 72 ounces of liquid	A Misd	ORS 475.864(4)(a)

Person 21 and older

> 1 oz in public place	} See immediately below
> 8 oz	
> 16 oz solid products	
> 72 oz liquid products	
> 1 oz of extracts	

Not > 2 times the amount	B Viol	ORS 475.864(7)(c)
> 2 times the amount	B Misd	ORS 475.864(7)(b)
> 4 times the amount	A Misd	ORS 475.864(7)(a)

Extract not purchased from OLCC retailer

Not > 1/4 ounce	B Misd	ORS 475.864(8)(b)
> 1/4 ounce	C Fel	ORS 475.864(8)(a)

Unlawful delivery of marijuana

To person < 18 by person 21 or older C Fel ORS 475.860(4)

To a person 21 or older

Non-homemade marijuana or product

For no consideration

< 5 gr leaves, stems, flowers	Viol	ORS 475.860(3)(b)
< 1 oz leaves, stems, flowers	A Misd	ORS 475.860(3)(a)

Homemade marijuana or homemade products for non-commercial purposes

> 1 oz	} A Misd	ORS 475.860(2)
> 16 oz solid products		
> 72 oz liquid products		
Any amount of extract		

All other (except personal allowance) A Misd ORS 475.860(2)

Unlawful delivery of marijuana within 1,000 feet of a school

by person under 21, or person over 21 and in excess of homegrown delivery allowances (immediately above) A Fel ORS 475.862

**Unlawful manufacture of marijuana**

By person 21 or older

> 4 plants at household	}	B Misd	ORS 475.856(4)
> 8 plants at household		C Fel	ORS 475.856(3)
> 16 oz solids at household			
> 72 oz liquids at household			
Any amount of extract			

All other (except personal allowance) C Fel ORS 475.856(3)

**Unlawful manufacture of marijuana within 1,000 feet of a school**

by person under 21, or person over 21 and  
in excess of homegrown manufacture  
allowances (immediately above)

A Fel ORS 475.858

**Use of marijuana while driving**

B Viol 2015 c.1 §73

**Driving while under the influence of intoxicants**

*(unamended by Measure 91 or HB 3400A)*

A Misd ORS 813.010  
C Fel ORS 813.010(5)  
ORS 813.011

**Use of minor in controlled substance offense**

*(unamended by Measure 91 or HB 3400A)*

Manufacture, transport, delivery

< 5 grams for no consideration	A Misd	ORS 167.262(1)/(2)(b)
Other	A Fel	ORS 167.262(1)/(2)(a)

**Marijuana MIP**

Attempting to purchase, purchase, or  
acquire, including accepting or  
consuming within past 24 hours

B Viol 2015 EHB 3400A §25

**Use of marijuana in public place**

B Viol 2015 c.1 §54

**Providing to visibly intoxicated person**

A Misd 2015 c.1 §§47(1)/69(1)

**Allowing consumption by minor on prop**

A Misd 2015 c.1 §§47(2)/69(1)

**Homegrown/homemade in public view**

B Viol 2015 c.1 §56

**Producing/storing homemade extract**

A Misd 2015 c.1 §§57/69(1)

**Giving marijuana item as prize**

A Misd 2015 c.1 §§46/69(1)

NOTES: "2015 c.1" is 2015 Oregon Laws, chapter 1, also known as Ballot Measure 91.  
"EHB 3400A" is Enrolled 2015 House Bill 3400A.

Selected Definitions

ORS 475.005

As used in ORS 475.005 to 475.285 and 475.752 to 475.980, unless the context requires otherwise:

\* \* \*

(16) "Marijuana":

(a) Except as provided in this subsection, 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.

(b) Does not mean 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.

(c) Does not mean industrial hemp, as defined in ORS 571.300, or industrial hemp commodities or products.

\* \* \*

2015 c.1 §5

2015 Oregon Laws, chapter 1, (Measure 91), Section 5, as amended by  
2015 Oregon Laws, chapter \_\_\_\_ (Enrolled House Bill 3400A), Section 1

As used in sections 3 to 70, chapter 1, Oregon Laws 2015:

\* \* \*

(2) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.

(3) "Cannabinoid concentrate" means a substance obtained by separating cannabinoids from marijuana by:

(a) A mechanical extraction process;

(b) A chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol;

(c) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or

(d) Any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

(4) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried marijuana leaves or flowers have been incorporated.

(5) "Cannabinoid extract" means a substance obtained by separating cannabinoids from marijuana by:

(a) A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane;

(b) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or

(c) Any other process identified by the commission, in consultation with the authority, by rule.

(6)(a) "Cannabinoid product" means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers.

(b) **"Cannabinoid product"** does not include:

- (A) Usable marijuana by itself;
- (B) A cannabinoid concentrate by itself;
- (C) A cannabinoid extract by itself; or
- (D) Industrial hemp, as defined in ORS 571.300.

(7)(a) **"Financial consideration"** means value that is given or received either directly or indirectly through sales, barter, trade, fees, charges, dues, contributions or donations.

(b) **"Financial consideration"** does not include:

(A) Homegrown marijuana that is given or received when nothing is given or received in return; or

(B) Homemade cannabinoid products or cannabinoid concentrates that are given or received when nothing is given or received in return.

(8) **"Homegrown"** or **"homemade"** means grown or made by a person 21 years of age or older for noncommercial purposes.

(9) **"Household"** means a housing unit and any place in or around a housing unit at which the occupants of the housing unit are producing, processing, or storing homegrown marijuana or homemade cannabinoid products or cannabinoid concentrates.

(10) **"Housing unit"** means a house, an apartment or a mobile home, or a group of rooms or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other persons in the building and that has direct access from the outside of the building or through a common hall.

(11) **"Immature marijuana plant"** means a marijuana plant that is not flowering.

(12) **"Licensee"** means a person who holds a license issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015.

(13) **"Licensee representative"** means an owner, director, officer, manager, employee, agent or other representative of a licensee, to the extent that the person acts in a representative capacity.

(14)(a) **"Marijuana"** means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(b) **"Marijuana"** does not include industrial hemp, as defined in ORS 571.300.

(15) **"Marijuana flowers"** means the flowers of the plant genus Cannabis within the plant family Cannabaceae.

(16) **"Marijuana items"** means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

(17) **"Marijuana leaves"** means the leaves of the plant genus Cannabis within the plant family Cannabaceae.

\* \* \*

(22) **"Mature marijuana plant"** means a marijuana plant that is not an immature marijuana plant.

(23) **"Noncommercial"** means not dependent or conditioned upon the provision or receipt of financial consideration.

\* \* \*

(28) **"Public place"** means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and areas used in connection with public passenger transportation.

(29)(a) **"Usable marijuana"** means the dried leaves and flowers of marijuana.

- (b) "Usable marijuana" does not include:
  - (A) The seeds, stalks and roots of marijuana; or
  - (B) Waste material that is a by-product of producing or processing marijuana.

**Exemptions**

**2015 c.1 §6**

*2015 Oregon Laws, chapter 1, (Measure 91), Section 6, as amended by  
2015 Oregon Laws, chapter \_\_\_\_ (Enrolled House Bill 3400A), Section 39*

- (1) Sections 7 to 44 and 60 to 62, chapter 1, Oregon Laws 2015, do not apply:
  - (a) To the production, processing or storage of homegrown marijuana at a household by one or more persons 21 years of age and older, if the total amount of homegrown marijuana at the household does not exceed four marijuana plants and eight ounces of usable marijuana at any time.
  - (b) To the making, processing or storage of homemade cannabinoid products at a household by one or more persons 21 years of age and older, if the total amount of homemade cannabinoid products at the household does not exceed 16 ounces in solid form at any time.
  - (c) To the making, processing or storage of homemade cannabinoid products at a household by one or more persons 21 years of age and older, if the total amount of homemade cannabinoid products at the household does not exceed 72 ounces in liquid form at any time.
  - (d) To the making, processing or storage of homemade cannabinoid concentrates at a household by one or more persons 21 years of age or older, if the total amount of homemade cannabinoid concentrates at the household does not exceed 16 ounces at any time.
  - (e) To the delivery of not more than one ounce of homegrown marijuana at a time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.
  - (f) To the delivery of not more than 16 ounces of homemade cannabinoid products in solid form at a time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.
  - (g) To the delivery of not more than 72 ounces of homemade cannabinoid products in liquid form at a time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.
  - (h) To the delivery of not more than 16 ounces of cannabinoid concentrates at a time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.
- (2) Sections 7 to 70, chapter 1, Oregon Laws 2015:
  - (a) Do not apply to the extent a person acts within the scope of and in compliance with the Oregon Medical Marijuana Act; and
  - (b) Do not amend or affect duties, functions and powers of the Oregon Health Authority under the Oregon Medical Marijuana Act.

**Unlawful possession of marijuana**

**ORS 475.864**

- (1) As used in subsections (2) to (4) of this section:
  - (a) "Marijuana" means the leaves, stems and flowers of the plant *Cannabis* family *Moraceae*.

(b) "Marijuana product" has the meaning given the term "marijuana" in ORS 475.005 (16), but does not include the leaves, stems and flowers of the plant Cannabis family Moraceae.

(2) It is unlawful for any person under 21 years of age knowingly or intentionally to possess marijuana or marijuana product.

(3)(a) Unlawful possession of more than eight avoirdupois ounces of marijuana by a person under 21 years of age is a Class A misdemeanor.

(b) Unlawful possession of more than one avoirdupois ounce of marijuana, but less than eight avoirdupois ounces, by a person under 21 years of age is a Class B misdemeanor.

(c) Unlawful possession of one avoirdupois ounce or less of marijuana by a person under 21 years of age is a specific fine violation. The presumptive fine for a violation under this paragraph is \$650.

(4)(a) Unlawful possession of more than 16 avoirdupois ounces of marijuana product in a solid form or more than 72 ounces of marijuana product in a liquid form by a person under 21 years of age is a Class A misdemeanor.

(b) Unlawful possession of 16 avoirdupois ounces or less of marijuana product in a solid form or 72 ounces or less of marijuana product in a liquid form by a person under 21 years of age is a Class B misdemeanor.

(5) As used in subsections (6) to (8) of this section, "cannabinoid concentrate," "cannabinoid extract," "cannabinoid product," "licensee," "licensee representative," "marijuana," "marijuana retailer," "public place" and "usable marijuana" have the meanings given those terms in section 5, chapter 1, Oregon Laws 2015.

(6) Except for licensees and licensee representatives acting in accordance with sections 3 to 70, chapter 1, Oregon Laws 2015, and any rule adopted under sections 3 to 70, chapter 1, Oregon Laws 2015, it is unlawful for any person 21 years of age or older knowingly or intentionally to possess:

(a) More than one ounce of usable marijuana in a public place.

(b) More than eight ounces of usable marijuana.

(c) More than 16 ounces of cannabinoid products in solid form or cannabinoid concentrates.

(d) More than 72 ounces of cannabinoid products in liquid form.

(e) More than one ounce of cannabinoid extracts.

(f) A cannabinoid extract that was not purchased from a marijuana retailer that holds a license under section 22, chapter 1, Oregon Laws 2015.

(7) A violation of subsection (6)(a) to (e) of this section is a:

(a) Class A misdemeanor, if the amount possessed is more than four times the applicable maximum amount specified in subsection (6)(a) to (e) of this section;

(b) Class B misdemeanor, if the amount possessed is more than two times, but not more than four times, the applicable maximum amount specified in subsection (6)(a) to (e) of this section; or

(c) Class B violation, if the amount possessed is not more than two times the applicable maximum amount specified in subsection (6)(a) to (e) of this section.

(8) A violation of subsection (6)(f) of this section is a:

(a) Class C felony, if the amount possessed is more than one-quarter ounce of the cannabinoid extract; or

(b) Class B misdemeanor, if the amount possessed is not more than one-quarter ounce of the cannabinoid extract.

**Unlawful delivery of marijuana**

**ORS 475.860**

(1) Except for licensees and licensee representatives, as those terms are defined in section 5, chapter 1, Oregon Laws 2015, that are engaged in lawful activities, and except for a person acting within the scope of and in compliance with section 6 (1), chapter 1, Oregon Laws 2015, it is unlawful for any person to deliver marijuana.

(2) Unlawful delivery of marijuana is a Class A misdemeanor.

(3) Notwithstanding subsection (2) of this section, unlawful delivery of marijuana is a:

(a) Class A violation, if the delivery is for no consideration and consists of less than one avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae; or

(b) Violation, if the delivery is for no consideration and consists of less than five grams of the dried leaves, stems and flowers of the plant Cannabis family Moraceae. A violation under this paragraph is a specific fine violation. The presumptive fine for a violation under this paragraph is \$650.

(4) Notwithstanding subsections (2) and (3) of this section, unlawful delivery of marijuana is a Class C felony, if the delivery is to a person under 18 years of age and the defendant is at least 21 years of age.

**Unlawful delivery of marijuana within 1,000 feet of a school**

**ORS 475.862**

(1) It is unlawful for any person to deliver marijuana within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.

(2) Unlawful delivery of marijuana within 1,000 feet of a school is a Class A felony.

(3) This section does not apply to:

(a) A licensee or licensee representative, as those terms are defined in section 5, chapter 1, Oregon Laws 2015, that is engaged in lawful activities; or

(b) A person acting within the scope of and in compliance with section 6 (1), chapter 1, Oregon Laws 2015.

**Unlawful manufacture of marijuana**

**ORS 475.856**

(1) As used in this section, "homegrown," "household," "license" and "licensee representative" have the meanings given those terms in section 5, chapter 1, Oregon Laws 2015.

(2) Except for licensees and licensee representatives that are engaged in lawful activities, and except for a person acting within the scope of and in compliance with section 6 (1), chapter 1, Oregon Laws 2015, it is unlawful for any person to manufacture marijuana.

(3) Unlawful manufacture of marijuana is a Class C felony.

(4) Notwithstanding subsection (3) of this section, unlawful manufacture of marijuana is a Class B misdemeanor if a person 21 years of age or older manufactures homegrown marijuana at a household and the total number of homegrown marijuana plants at the household exceeds four marijuana plants but does not exceed eight marijuana plants.

**Unlawful manufacture of marijuana within 1,000 feet of a school**

**ORS 475.858**

(1) It is unlawful for any person to manufacture marijuana within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.

(2) Unlawful manufacture of marijuana within 1,000 feet of a school is a Class A felony.

(3) This section does not apply to:

(a) A licensee or licensee representative, as those terms are defined in section 5, chapter 1, Oregon Laws 2015, that is engaged in lawful activities; or

(b) A person acting within the scope of and in compliance with section 6 (1), chapter 1, Oregon Laws 2015.

**Use of marijuana while driving**

**2015 c.1 §73**

*2015 Oregon Laws, chapter 1 (Measure 91), Section 73*

(1) A person commits the offense of use of marijuana while driving if the person uses any marijuana while driving a motor vehicle upon a highway.

(2) The offense described in this section, use of marijuana while driving, is a Class B traffic violation.

**Driving while under the influence of intoxicants**

**ORS 813.010 and 813.011**

*(remains the same)*

**Use of minor in controlled substance offense**

**ORS 167.262**

*(remains the same)*

**Marijuana MIP**

**2015 c.1 §49**

*2015 Oregon Laws, chapter 1 (Measure 91), Section 49, as amended by  
2015 Oregon Laws, chapter \_\_\_ (Enrolled House Bill 3400A), Section 25*

(1)(a) A person under 21 years of age may not attempt to purchase, purchase or acquire a marijuana item.

(b) For purposes of this subsection, purchasing a marijuana item includes accepting a marijuana item, and acquiring a marijuana item includes consuming a marijuana item, provided that the consumption of the marijuana item occurred no more than 24 hours before the determination that the person consumed the marijuana item.

(2) Except as authorized by the Oregon Liquor Control Commission by rule, or as necessary in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of persons under 21 years of age.

(3) A person who violates subsection (1) or (2) of this section commits a Class B violation.

(4) In addition to and not in lieu of any other penalty established by law, a court may require a person under 21 years of age who violates subsection (1) of this section through misrepresentation of age to perform community service, and the court may order that the person's driving privileges and right to apply for driving privileges be suspended for a period not to exceed one year. If a court has issued an order suspending driving privileges under this section, the court, upon petition of the person, may withdraw the order at any time the court deems appropriate. The court notification to the Department of Transportation under this subsection may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.

(5) If a person cited under this section is at least 13 years of age but less than 21 years of age at the time the person is found in default under ORS 153.102 or 419C.472 for failure to appear, in addition to and not in lieu of any other penalty, the court shall issue notice under ORS 809.220 to the department for the department to suspend the person's driving privileges under ORS 809.280 (4).

(6) In addition to and not in lieu of any penalty established by law, the court may order a person to undergo assessment and treatment if the person has previously been found to have violated this section.

(7) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of the commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of marijuana items to persons who are under 21 years of age.

(8) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of marijuana items to persons who are under 21 years of age.

(9)(a) A person under 21 years of age is not in violation of, and is immune from prosecution under, this section if:

(A) The person contacted emergency medical services or a law enforcement agency in order to obtain medical assistance for another person who was in need of medical assistance because that person consumed a marijuana item and the evidence of the violation of this section was obtained as a result of the person's having contacted emergency medical services or a law enforcement agency; or

(B) The person was in need of medical assistance because the person consumed a marijuana item and the evidence of the violation of this section was obtained as a result of the person's having sought or obtained the medical assistance.

(b) Paragraph (a) of this subsection does not exclude the use of evidence obtained as a result of a person's having sought medical assistance in proceedings for crimes or offenses other than a violation of this section.

#### Use of marijuana in public place

##### 2015 c.1 §54

##### 2015 Oregon Laws, chapter 1 (Measure 91), Section 54

(1) It is unlawful for any person to engage in the use of marijuana items in a public place.

(2) A violation of subsection (1) of this section is a Class B violation.

**Providing marijuana to intoxicated person**

**2015 c.1 §47(1)**

*2015 Oregon Laws, chapter 1 (Measure 91), Section 47(1), as amended by  
2015 Oregon Laws, chapter \_\_\_\_ (Enrolled House Bill 3400A), Section 50*

(1) A person may not sell, give or otherwise make available any marijuana item to a person who is visibly intoxicated.

**Allowing consumption by minor on property**

**2015 c.1 §47(2)**

*2015 Oregon Laws, chapter 1 (Measure 91), Section 47(2), as amended by  
2015 Oregon Laws, chapter \_\_\_\_ (Enrolled House Bill 3400A), Section 50*

(2)(a) A person who exercises control over private real property may not knowingly allow a person under the age of 21 years to consume marijuana items on the property, or allow any other person under the age of 21 years to remain on the property if the person under the age of 21 years consumes marijuana items on the property.

(b) This subsection:

(A) Applies only to a person who is present and in control of the location at the time the consumption occurs; and

(B) Does not apply to the owner of rental property, or the agent of an owner of rental property, unless the consumption occurs in the individual housing unit in which the owner or agent resides.

**Homegrown or homemade marijuana in public view**

**2015 c.1 §56**

*2015 Oregon Laws, chapter 1 (Measure 91), Section 56, as amended by  
2015 Oregon Laws, chapter \_\_\_\_ (Enrolled House Bill 3400A), Section 55*

(1) A person may not produce, process or store homegrown marijuana or homemade cannabinoid products or cannabinoid concentrates if the homegrown marijuana or homemade cannabinoid products or cannabinoid concentrates can be readily seen by normal unaided vision from a public place.

(2) A violation of subsection (1) of this section is a Class B violation.

**Producing, processing, or storing homemade cannabinoid extracts**

**2015 c.1 §56**

*2015 Oregon Laws, chapter 1 (Measure 91), Section 56, as amended by  
2015 Oregon Laws, chapter \_\_\_\_ (Enrolled House Bill 3400A), Section 57*

A person may not produce, process or store homemade cannabinoid extracts.

**Giving marijuana item as a prize**

**2015 c 1 §46**

*2015 Oregon Laws, chapter 1 (Measure 91), Section 46, as amended by  
2015 Oregon Laws, chapter \_\_\_\_ (Enrolled House Bill 3400A), Section 49*

A marijuana item may not be given as a prize, premium or consideration for a lottery, contest, game of chance, game of skill or competition of any kind.

(Penalties)

2015 c.1 § 69(1)

*2015 Oregon Laws, chapter 1 (Measure 91), Section 69(1), as amended by  
2015 Oregon Laws, chapter \_\_\_\_ (Enrolled House Bill 3400A), Section 66*

(1) Except where other punishment is specifically provided for in sections 3 to 70, chapter 1, Oregon Laws 2015, violation of any provision of sections 3 to 70, chapter 1, Oregon Laws 2015, is a Class A misdemeanor.

**DISCLAIMER**

This pamphlet was prepared by Rob Bovett, Special Prosecutor with the Lincoln County District Attorney's Office, for use in guiding Lincoln County law enforcement personnel in the implementation of new laws relating to marijuana offenses that go into effect in July of 2015. Any other law enforcement personnel should check with their own District Attorney before using this pamphlet.

This pamphlet was prepared in connection with a shift break training video on June 30, 2015, which can be accessed to assist with a better understanding of the new Oregon marijuana offenses.

**IMPORTANT NOTE**

As of June 30, 2015, Oregon House Bill 3400A, which is the foundation of many of the offenses listed in this pamphlet, had not yet passed the Oregon legislature and been signed by the Governor. This pamphlet is not valid until that occurs, which is anticipated any day.

**Lincoln County District Attorney's Office  
225 W Olive Street, Room 100  
Newport, OR 97365  
541-265-4145**

Lincoln County  
Oregon



Marijuana Council

**A Diverse Group with a Proactive Approach for  
Local Education**

The Lincoln County Marijuana Council is comprised of key stakeholders from the business, health care, education, non-profit, local government & public safety sectors.

*Our Mission is to facilitate the safe, responsible and successful inception of recreational marijuana in Lincoln County, Oregon through proactive & unified education efforts.*

**Educated Consumers**

**Informed Parents**

**Knowledgeable Retailers**

Pamphlet Published by PAADA

## PURCHASE

RETAIL STORES OPEN OCTOBER 1, 2015

- Only buy from a licensed retailer
- Buy only what you need, you can always go back for more
- Ask the retailer for guidance based on your experience and tolerance level
- Anyone 21 or older can possess 1 ounce away from home, 8 ounces in the home
- Keep cannabis in its original packaging
- Keep products in a secure and safe place **AWAY FROM MINORS** at all times

## TRAVEL

- Taking marijuana across state lines is a federal offense (this includes Washington)
- Recreational Marijuana IS NOT LEGAL IN: California, Idaho and Nevada
- You **CANNOT** have an open container of cannabis in a motor vehicle at any time
- Driving high is extremely dangerous and illegal, law enforcement is trained to recognize all "stoned" intoxication signs, drive high - get a

# LOCAL GUIDE TO RECREATIONAL MARIJUANA

Lincoln County  
**MARIJUANA COUNCIL**



RETAIL STORES OPEN OCTOBER 1, 2015

# WHAT'S LEGAL?

Educate Before You Recreate

[www.WhatsLegalOregon.com](http://www.WhatsLegalOregon.com)

## 21+

You can possess and use recreational marijuana if you are 21 and older. If you are younger, it's illegal.



You can grow up to 4 plants per residence, out of public view.



You can use recreational marijuana at home or on private property.

**PUBLIC USE IS ILLEGAL.**



You can possess up to 8 oz of usable marijuana in your home & 1 oz of usable marijuana outside the home.



Driving under the influence of marijuana remains illegal. Please be responsible.



You can make edible products at home or receive them as a gift, and can only use them in private places.



You can't take marijuana in or out of the state. That includes Washington.



You can share or give away recreational marijuana. You can't sell it or buy it until licenses, retail shops open.

## CONSUME

- Find a private setting. It is illegal to consume cannabis in public: Parks, beaches, restaurants, bars, etc.
- Smoking remains illegal in public spaces including hotel common areas; ask about smoking restrictions in hotel rooms.

## TIMING

- It takes approximately 2 hours to feel the effects of edibles and the duration of the effects can last 4-6 hours.
- It takes approximately 5-10 minutes to feel the effects of smoking/vaporizing and the duration can last 1-2 hours.

## SERVING SIZE

- It is suggested you take NO more than 10 mg serving the first time you consume edibles and 1-2 draws if you are smoking/vaporizing cannabis
- Let the effects of your 1st serving run their full duration, do not take more
- Do not mix alcohol and cannabis

Some aspects of the law are still being determined by the State Legislature. The information contained in this brochure is for general educational and informational purposes. Nothing contained herein is intended to or shall be construed as offering any medical or legal advice. If you have any medical or legal questions, consult a professional.

# Marijuana council aimed at educating community

Published July 1, 2015

BY DIANE VANCE  
Of the News-Times

NEWPORT — In the November 2014 election, Lincoln County voters supported Measure 91 to legalize recreational marijuana by a 61.9 percent majority of voters, 12,349 yes to 7,583 no votes.

That put Lincoln County as the second highest majority, behind Multnomah County, which passed the measure with a 71.2 percent majority.

Public education about legal recreational marijuana is one goal of the Lincoln County Marijuana Council, which met March 12 and May 14 in Newport.

The council's next meeting is July 16.

"We have a large tourist industry in Lincoln County," said Elise Jordan, outreach specialist at the Partnership Against Alcohol and Drug Abuse. PAADA is coordinating the council's efforts. "Like Colorado has done, we're working to educate our tourist industry managers."

Jordan said a website is planned to launch in the fall for public access to more information about legal recreational marijuana.

"We want to provide everyone with up-to-date and accurate information about local retail marijuana, dosages, packaging, consumption and public safety," she said.

The council is looking at possible effects of the state law for recreational marijuana in each sector of the community.

"Council members are sharing ideas and working together," said Jordan.

"We're looking at OLCC's (Oregon Liquor Control Commission) online guide and what it all means for Lincoln County. It will be interesting to see how this rolls out. More than ever, people are curious about how this is going to play out."

OLCC has been designated as the oversight agency for recreational marijuana. Its website — [www.oregon.gov/OLCC](http://www.oregon.gov/OLCC) — has a "What's Legal? Educate Before You Recreate," link at the top of the page.

Going to that link titled, [whatslegaloregon.com](http://whatslegaloregon.com), has eight topics about the new laws in one graphic. More information about each of the topics is available by clicking on a topic. The site also has a Facebook page and a Twitter account.

The Lincoln County Marijuana Council plans to meet once more after the July meeting. The council hopes to design a local education campaign to identify and solve any potential problems before they occur.

"Council members are subject-matter experts in their field," according to a June bulletin sent to council members. The bulletin lists the local council stakeholders as representing: the school district, public safety, city and county governments, Confederated Tribes of Siletz Indians, health care and county health department, the hospitality industry and tourism, nonprofits, marijuana retailers, youth, parents, public utility companies, real estate and members of faith based groups.

"The council recognizes legal recreational marijuana

could bring changes to our communities," said Jordan. "We are looking at the many different repercussions, challenges and/or opportunities of these changes. The Lincoln County Marijuana Council provides a platform to have that discussion."

Jordan said council members agree it has a responsibility to provide public education campaigns.

"We're taking a proactive approach to acknowledging marijuana is now legal, and we hope to use the collective knowledge of community doctors, psychiatrists, law enforcement and industry partners to educate residents, youth, tourists and businesses," she said.

"We are designing a pamphlet to make sure area businesses have accurate information to share with tourists coming from out of state."

The council will host an all-school assembly in the fall at the four area high schools.

"A panel will present information to students and host a question-and-answer session," said Jordan.

At its first meeting in March, council members identified a shared set of goals and priorities, such as understanding the local implications and details of retail marijuana. It decided to develop a unified educational campaign targeting three demographic groups: youth, seniors and tourists.

In May, the council discussed local control, zoning and what communities will look like with legal recreational marijuana.

Contact PAADA at 541-574-7890 for more information.

# LINCOLN COUNTY MARIJUANA COUNCIL

June 2015 2nd Edition

# Bulletin

## LEGAL MARIJUANA COUNTDOWN

Beginning July 1, adults 21 and older can legally possess and grow marijuana. Lincoln County Marijuana Council will meet twice more to design a local education campaign and to identify/solve potential problems before they occur.

### PUBLIC EDUCATION: IDENTIFIED AS THE PRIMARY GOAL

Council members are subject-matter experts in their field and have agreed to help assist in the development and integration of retail marijuana education. Members may help present information at panels in the Fall, while other Members will help create a website, or work on written materials for brochure kiosks and schools.

Through the work of the Lincoln County Marijuana Council, our community will lead the state to ensuring a safe and responsible roll-out of retail marijuana. (Next meeting July 16th 12-2 @ Newport City Hall)

-EDUCATED CONSUMERS -INFORMED PARENTS -KNOWLEDGEABLE RETAILERS



## LOCAL COUNCIL

### KEY STAKEHOLDERS

- SCHOOL DISTRICT
- PUBLIC SAFETY
- CITY / COUNTY GOVERNMENT
- TRIBE
- HEALTHCARE
- HOSPITALITY INDUSTRY
- NON-PROFIT AGENCIES
- MARIJUANA RETAILERS
- YOUTH & PARENTS
- COUNTY HEALTH DEPARTMENT
- HOSPITALITY / TOURISM
- PUBLIC UTILITY COMPANIES
- REAL ESTATE
- FAITH BASED



### "LOOK BACK"

**SECOND MEETING (5/14/15)** The Council held the 2nd of 4 meetings to examine the pending legislative changes to Measure 91. The Council discussed "What Communities Will Look Like" when marijuana is legal, specifically addressing "Local Control" considerations including: Zoning, Time, Place &

Manner. There were 22 Council members in attendance, representing 4 sectors of the community (Health, Safety, Local Ordinances, Dispensaries) that will effectively inform residents, youth and tourists through future educational panels and the local informational campaign (website, brochures, signage).

**FIRST MEETING (3/12/15)** The Lincoln County Marijuana Council formed with 25 stakeholders from all sectors, across L.C.. The Council identified a shared set of goals and priority areas. Understanding the local implications and intricacies of retail marijuana. Develop a unified educational campaign that targets 3 demographics: youth, seniors and tourists.

Lincoln County's Marijuana Council seeks to create a cohesive community approach to facilitate the safe, responsible & successful inception of recreational marijuana in Lincoln County, Oregon. Special thanks to the Mid Valley Marijuana Council of Pitkin County, Colorado for their support.

Contact PAADA for more information

541-574-7890

**NEXT COUNCIL MEETING: Thursday, July 16th 12-2 @ Newport City Hall**

## Questionnaire Responses from 5/14/15 meeting

Most Important to focus on:	
Enforcement	1
Enforcement	1
How and why the medical Marijuana industry will be effecte	1
Legal clarity in retail buisness sector	1
Promotes economy	1
Zoning of grow operations	1
Understanding THC potency	2
Public Safety (DUI)	3
Youth Using	5
Public Education	14

### What is something NEW you learned today:

Current legislative update	
Timeline of Implimentation information	
Education plans are non-exsistant	
There are still many questions about Measure 91 that are unanswered	
Informative Session	
The lack of process that exists surrounding Measure 91	
Education is needed by far	
"Higher" doesn't mean "Better"	
Lots of changes! Depending on the OR Legislature (& independent from the session) things are changing	
Legislative update	
Tourist concerns	
Attitude is more positive that I was expecting	
Everything is still forming	
Money is the driving force	
Legislature still not making progress	
We need clarity (as community) on rules	

### Willing to be a panelist for the community-wide education panels this coming fall

Jennifer Versteeg - Lincoln County Public Health
Hunter Oxley - Youth, Toledo High School
Mike Smith - Windermere Realestate
A.J. Mattilla - Mayor Depoe Bay
Curtis Landers - Lincoln County Sherrifs Office
Bill Hall - Lincoln County Commissioner
Sgt. Jeffrey Winn - Lincoln City Police Department



## Sector Based Small Group Discussion Reports recorded @ 5/16/2015 meeting

### **GOALS:**

1. Outline possible solutions, problems, questions and/or interventions
2. Outline education opportunities
3. Outline what we can expect from the law as it is currently written

### **SECTOR: "Local Ordinances"**

Cities and County: Important to get the message out, outside of local government, there is a purpose and reason to have local ordinances - this is so things operate efficiently and safely

Depoe Bay City Council: Designated "Neighborhood for Kids / Kid Zone" as a school: no marijuana within 1,000 ft. school zone

Toledo: Medical marijuana zoning ordinances

County: Mapping and zoning for grows

Future issues/ideas: Marijuana Lunch Wagon (taking m.j. to other areas in the county - mobile store)

### OTHER:

- Can't legislate / regulate morality
- The spectrum of acceptance of legalization of rec.
- Education is far reaching across all areas, dial back the hysteria, facebook (Social media) press releases, radio.
- Accurate information essential
- Youth / Kids know more than we do (products available, how to use them, example: "dapping")

### **SECTOR: Safety**

Zoning: enforcement waiting for legislation to clearly outline local zoning control  
How will law enforcement test for m.j. / how will you test for impairment

Integrate parents: Prevention starts at home, the parent is responsible for youth in their home (not law enforcement)

Perception: Kids are thinking that 18 is adult (as opposed to legally 21)

Youth consequences: How will these be addressed. Violation fine?

Babies / young kids: - integrating parents with education, effects of THC on prenatal development, health providers new information to educate expecting and/or young mothers  
Responsibility of the businesses to keep themselves safe

Peers listen to peers more, curriculum (like mentoring for bullying)

Employment: how will that work out for hiring practices

Housing: - Rentals how would you know if there was a grow at the rental? What do property owners do with concerns if it is legal?

**SECTOR:            Health Education**

Who would be the ideal agency to hub all the information that is available education wise and on a local level - Website

Branding

Sheriff's Office has a facebook - could they hub the website?

**SECTOR:            Marijuana Dispensaries**

Year and half away

Will it merge with medicinal? (alongside each other)

Where and when questions

Not a lot of guidance

Long and rocky road for growers, retailers, processors

Where do business people go for advice?

Frustrating for lawyers, business attorney, real estate, tax, CPA - people that are going into this business want to be seen legit.

Lack of advice

# Lincoln County 2nd Highest in state to vote **YES on 91**

## Measure 91

Measure 91: No legalization



## Big Fans of Marijuana Legalization

In the Nov. 4 election, the county voted to approve Measure 91, which legalized marijuana for recreational use, with a 61.9 % majority — the second-highest in the state, behind only Multnomah (71.2 %).

Lane (60.5%)  
Benton (60.4 %).

In fact, Measure 91 passed in all but two of the county's 13 voting precincts.

# LINCOLN COUNTY MARIJUANA COUNCIL

May 2015

# Bulletin

## AFTER THE PASSAGE OF MEASURE 91

Public safety leaders in Lincoln County began brainstorming what it would take to safely introduce recreational marijuana into our communities.

On March 12th, 2015 County Commissioner Bill Hall in collaboration with PAADA, Partnership Against Alcohol and Drug Abuse invited a variety of community stakeholders to meet and discuss areas of concern and identify opportunities:

- Health & Safety
- Local Ordinances
- Education
- Dispensaries / Product

During the first meeting it was clear there is a shared set of goals and priority areas.

Everyone at the table is interested in understanding the local implications and intricacies of recreational retail marijuana. It was agreed there needs to be a strong educational component, targeting three different demographics: youth, seniors and tourists.

Lincoln County's Marijuana Council seeks to create a cohesive community approach to facilitate the safe, responsible & successful inception of recreational marijuana in Lincoln County, Oregon.

*Our local council is modeled after the Mid Valley Marijuana Council in Aspen, Colorado.*

## RECREATIONAL USE TIMELINE



CREATING A  
SAFE  
RESPONSIBLE  
"ROLL OUT"



## LOCAL COUNCIL

### KEY STAKEHOLDERS

- BUSINESS COMMUNITY
- SCHOOL DISTRICT
- PUBLIC SAFETY
- CITY / COUNTY GOVERNMENT
- TRIBE
- HEALTHCARE
- NON-PROFIT AGENCIES
- MARIJUANA RETAILERS
- YOUTH & PARENTS
- COUNTY HEALTH DEPARTMENT
- HOSPITALITY / TOURISM
- PUBLIC UTILITY COMPANIES
- REAL ESTATE
- FAITH BASED
- SENIOR CITIZENS

Contact PAADA for more information

541-574-7890

**NEXT COUNCIL MEETING: Thursday, May 14th 12-2 @ Newport City Hall**

- ### COUNCIL OUTPUT IDEAS
- Education Campaigns
  - Help Shape Local Ordinances
  - Sounding Board Across All Sectors  
(Public & Private)
  - Identify Issues & Opportunities

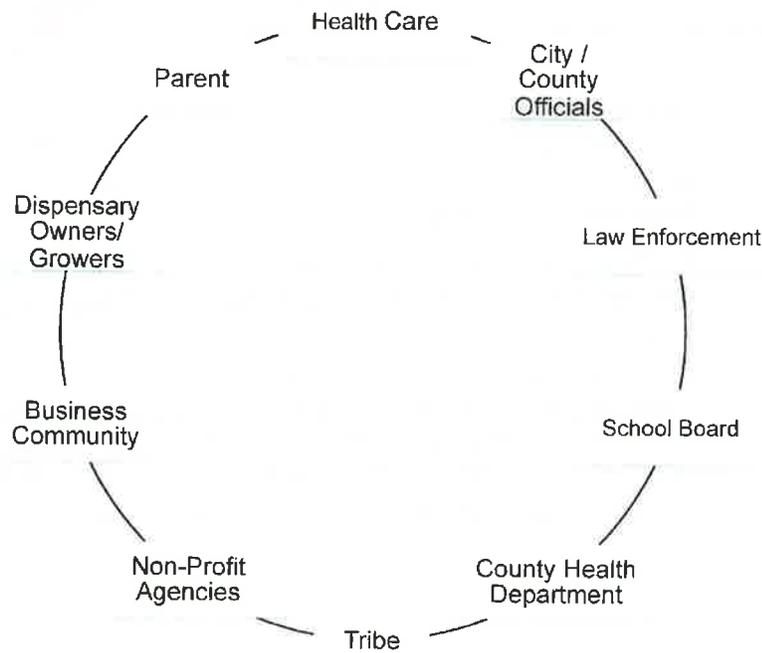


# MARIJUANA LISTENING SESSION

March 12, 2015 12:00 pm – 1:30 pm - Newport City Hall

- Presentation on Aspen, Colorado’s (Pitkin County) Valley Marijuana Council (VMC)
  - Council model, key stakeholders, timeline, issues, challenges and successes

## Marijuana Council Stakeholders



### Suggested Stakeholder additions to Lincoln County’s Marijuana Council

1. Hotel/Tourism
2. Seniors
3. Public Utility Companies
4. “At-Large” Community Member
5. Marijuana Attorney
6. EMT/Ambulance
7. Faith Based
8. Youth Representative

### Oregon Timeline

- **November 2014:** Measure 91 passes
- **December 2014 – July 2015:** OLCC adopting rules, host listening sessions, and taking application forms for businesses.
- **July 1, 2015: Measure 91 takes effect:** Allows the personal use and possession of recreational marijuana under Oregon law.
- **January 4, 2016:** Measure 91 requires OLCC to begin accepting license applications.  
**297 DAYS 1<sup>st</sup> DISPENSARY OPENS (3/12/15)**

## ISSUES IDENTIFIED

### HEALTH & SAFETY

- More Access= Increase/uptake in THC related ER visits, increase in mental illness, motor vehicle accidents, irresponsible use
- We should expect these things, in healthcare it is our responsibility to be ready for these things
- Vacation community means more irresponsible tourist “over-doses”
- Higher THC levels, bad reactions (especially seniors)
- Detection, Alcohol has a legal limit, marijuana does not, everyone is effected differently,
- THC stays in system after use (up to 30 days).
- Lines are blurred, between acceptance of other/hard drugs because now Marijuana is legal/social acceptable

### LOCAL ORDANANCES

- Marijuana energy/water usage
- Backyard grows
- Land use/zoning laws – agriculture
- Medical marijuana shop owner in Toledo wanted to fight the City on state law, local enforcement and safety ordinances
- Keeping grows local (not allowing for large scale grower / distributors)
- Grey/black market
- Tribe is a sovereign nation, marijuana will not be legal on Siletz
- County/City employees marijuana use vs. impairment

### DISPENSARIES / PRODUCT

- Question about laws regarding grower/owner criminal history background checks
- Hospitals NO MARIJUANA: Hospital would license, no medical or recreational marijuana allowed in hospital building
  - Question about seizure laws of marijuana once legal

## OPPORTUNITIES IDENTIFIED

### HEALTH & SAFETY

- Educate Tourists
- Traffic Safety – A Ride training program at OSP to help with drug recognition
- Engineering – building a framework, council is a benefit

### LOCAL ORDANANCES

- Council is prime for information sharing among all communities in Lincoln County
- Depoe Bay City Council passed: No dispensary 1,000 ft. from school, \*also an OLCC recommendation to legislature.
- League of Oregon Cities has a guide with suggestions about Marijuana laws
- OLCC will have serious safety requirements for licensed retailers, tracing “seed to sale” inventory

### EDUCATION

- PAADA will work with council to create cohesive messaging for target populations (consumers, tourists, youth, parents, service providers, law enforcement, etc.)
- Council will help Lincoln County unify a safe and responsible “roll-out” of legal recreational marijuana
- Stakeholders will meet over the next 296 days to trouble-shoot issues and develop opportunities by sharing information and resources

March 12<sup>th</sup>, 2015

## Attendance Roster 1<sup>st</sup> Council Meeting

Meeting called by Bill Hall, Lincoln County Commissioner

### Law Enforcement

Jason Malloy, Newport Police Department  
Justin McGladrey, State Trooper  
Jeffrey Winn, Lincoln City Police Department

### City Government

Mayor Don Williams, Lincoln City  
Mayor A.J. Mattila, Depoe Bay  
Mayor Billie Jo Smith & Guest, Toledo  
Mayor Susan Woodruff, Waldport  
Pauline Gates, Waldport City Council  
Ralph Busby, Newport City Council  
Kerry Kemp, Waldport City Manager  
Jay Baughman, Toledo City Manager  
Brady Weidner, Depoe Bay City Superintendent

### School District

Liz Martin, LCSD School Board  
Dave Kline, Newport High School Assistant Principal

### Chamber of Commerce

Candace Paris, Lincoln City  
Diane Flansburg, Lincoln City

### Non-Profit Agency

Don McDonald, PAADA Coalition Coordinator  
Marsha Eckleman, PAADA Board Treasurer  
Elise Jordan, PAADA Staff

### Health Services

Lesley Ogden, Samaritan North Lincoln Hospital

### Siletz Tribe

Bonnie Peterson, CTSI Assistant General Manager

# Oregon Coalition Prevention Professionals—2015 Public Health and Safety Recommendations for Retail Marijuana



**HOW TO USE THIS DOCUMENT:** This document is intended to provide prevention professionals with a tool to work at the state and local community levels on implementing policies, based on decades of research for effective substance abuse prevention, in order to prevent youth marijuana use and adult abuse. This is for education purposes only and not intended for lobbying activity.

Increased marijuana use among youth and adults is a public health and public safety concern associated with significant health and social costs. Current retail marijuana laws and rules can be strengthened and policy strategies put in place to mitigate the impact. The recommendations provided in this document should be considered in order to reduce negative consequences associated with marijuana use, such as youth access, drugged driving, dependency and addiction, and to establish clear industry standards to uphold the public's health and ensure its safety.

## **Public Health and Safety Objectives**

1. Prevent access, availability and use by persons under 21;
2. Prevent addiction, injury and death, particularly among vulnerable populations;
3. Prevent drugged driving;
4. Ensure safe and legal use for persons 21 or older;
5. Prevent consumption of marijuana products with unwanted contaminants and uncertain potency levels;
6. Monitor and respond to health and safety impacts of marijuana use.

## **Policy Recommendations to Achieve Public Health and Safety Objectives**

The right preventive measures should be put in place early to strike the right balance between legal availability and protecting public health. The following recommendations are based on evidence-based policy and practice approaches gleaned from decades of research on effective alcohol and tobacco prevention.<sup>1,2,3,4</sup>

1. **LOCAL AUTHORITY.** To respond to effectively and efficiently to local community needs, local governance should be given authority to provide restrictions greater than those set forth by the State law/rules to regulate time, place, and manner.
2. **LICENSING.** Develop, maintain, monitor and enforce a strong licensing system that is inclusive of the following factors:
  - a. **Location.** Facilities that dispense, produce, process, distribute and/or sell marijuana for retail and/or medical purposes should not be located within 2,500 feet of the real property of another facility nor should they be located within

2,500 feet of areas associated with minors such as, but not limited to, any public or private preschool, elementary, secondary, postsecondary or career school, playground, recreation center or facility, childcare center, public park, public transit center, library or game arcade that allows minors to enter.

- b. **Density.** Local city and county governments should set limits on the number of licensed dispensaries based on population size and community characteristics.
- c. **Hours of Operation.** Limit the hours of operation to 10:00 a.m. to 7:00 p.m.
- d. **Age Restrictions.** Persons younger than 21 years of age should not be allowed to enter facilities. Visible signage to this effect should be posted.
- e. **Business Type.** Licensees should be restricted to sell only marijuana, marijuana products and paraphernalia.
- f. **Security.** Security measures should be required to ensure that unauthorized access to marijuana products is prevented. Such as but not limited to: i) properly working security cameras should be placed both on the inside and outside of the building, at all points of entrance and exit including easy access areas such as windows, ii) alarm systems that are authorized through legitimate alarm companies and directly connected to local law enforcement should be installed, iii) sufficient outside lighting installed and iv) garbage containers locked and secured.
- g. **Disposal.** Establish disposal methods of marijuana products and paraphernalia such that these products do not inadvertently get used past their shelf life.
- h. **Employee Requirements.** Require licensing and training for employees who dispense, produce, process, distribute and/or sell marijuana. Prohibit retail and agricultural employees from working under the influence of marijuana or smoking or consuming marijuana while working. Employees of facilities, including agricultural sites, should be 21 years of age or older. Employees must pass a criminal back ground check.
- i. **Fees.** Annual licensing fees should be incurred to help pay for licensing, monitoring and enforcement. Local jurisdictions should have the ability to set taxes and fees.
- j. **Placement.** Products should be stored behind sales counters.

### 3. PRICING.

- a. **Establish a Minimum Price.** Lower priced alcohol and tobacco products are proven to increase accessibility and use by both youth and adults. With regard to marijuana a minimum price should be considered to help prevent diversion to minors and prevent growth in the black market.

### 4. MANUFACTURING.

- a. **Product Types.** Limit the types of products sold, particularly those that are appealing to youth, such as edible or flavored products, such that edible marijuana infused products shall not bear a resemblance to any product available for consumption as a commercially available candy or youth-oriented product.

- b. **Packaging.** Packaging requirements should be put into place that include:
  - i. Prohibit packaging that appeals to youth, including:
    - 1. Language, images, including cartoon figures, animals or celebrities that primarily appeal to youth or
    - 2. Association of the product with attainment of adulthood or the 'rite of passage'.
  - ii. Packaging must be child resistant.
- c. **Labeling.** Maintain accurate and uniform labeling requirements such that ingredients, contents, serving size and potency levels are listed in a manner that is consistent across the State.
- d. **Serving Sizes.** Establish standard serving size for edibles, in terms of THC content.
- e. **Testing.** Establish statewide standards and requirements for testing all marijuana products for containments.
- f. **Expiration Dates.** Require expiration dates on marijuana products and ensure a method for regular inspection and proper disposal.
- g. **Warning Labels.** Warning labels should be placed on all packages to remind users of dangers such as, but not limited to, driving under the influence and operating heavy equipment, damage to the developing brain, danger to the fetus and/or baby if mother uses while pregnant or breastfeeding.
- h. **Food Inspection.** All edibles must be produced in a commercial kitchen that has passed Oregon Department of Agriculture criteria along with local standards. The certificate of approval must be posted in a visible spot.

## 5. ADVERTISING.

- a. **Restrictions.**
  - i. Prohibit all advertisements and giveaways for marijuana, marijuana products or paraphernalia; and/or
  - ii. Prohibit all advertisements that appeals to youth, including:
    - 1. Ads that depicts a child or adolescent consuming marijuana or marijuana products;
    - 2. Ads that depict families consuming marijuana or marijuana products;
    - 3. Ads that use language, music or images, including cartoon figures, animals or celebrities that primarily appeal to youth or adolescents; and
    - 4. Prohibit the use of toys, giveaways or inflatables to advertise.
- b. **Displays.** No marijuana or product should be displayed in a window, on a door or on the outside of the premises that is visible to the general public.
- c. **Signage.** Signs identifying a facility's business or trade name on the facility's building or property should be restricted to one single sign per licensee, no larger than one 1,600 square inches.
- d. **Price Discounts.** Prohibit price discounting, coupons, and 'free' giveaways on marijuana, marijuana products and paraphernalia.

- e. **Samples.** Prohibit 'free sampling' of products.
- f. **Sponsorships.** Prohibit marijuana industry advertising of any kind (clothing, signage, logos) on school property and places that allow minors to enter.

#### 6. **POSESSION.**

- a. **Personal Possession.** Limit the amount of marijuana allowed to be possessed per residence to two ounces, 4 immature plants, 1 pound of solid homemade marijuana products and 3 ounces of liquid homemade marijuana products.
- b. **Furnishing to Minors.** Prohibit adults from furnishing marijuana to minors, regardless of guardianship.

#### 7. **PUBLIC CONSUMPTION.**

- a. **Public Consumption.** Prohibit public consumption and intoxication of smoked, vaped or ingested marijuana or THC in any form or through any device to:
  - i. Reduce secondhand exposure to smoke or vapor,
  - ii. Reduce the perception of normative behavior by youth.
- b. **On-Site Consumption.** Prohibit consumption of products in bars, shops and other facilities (for example, but not limited to, no free or purchased tasters).

#### 8. **ENFORCEMENT.**

- a. **Consistent Enforcement.** All rules should be rigorously and consistently enforced. Apply stiff fees for violations so that the implications are taken seriously and contribute toward reinforcing appropriate standards of practice and use.
- b. **Non-Compliance.** Monitor non-compliance in a timely manner. A license and or OMMP card should be revoked for non-compliance.
- c. **Inspection.** Allow OLCC to inspect premises, if it has reasonable suspicion of wrongdoing, without notice.
- d. **Enforcement Near School Zones.** Possession of marijuana within 1000 feet of a school should be a crime. Juvenile offenders charged should be referred to local Juvenile Departments.
- e. **Minor In Possession.** Ensure a Minor In Possession of marijuana by consumption citation to be equivalent to the consequences in place for alcohol consumption.
- f. **Minor Decoy.** Allow OLCC to possess marijuana for purposes of conducting minor decoy enforcement operations.

#### 9. **INDUSTRY STANDARDS.**

- a. Establish Industry Standards of Practice such that consistent risks and benefits of using marijuana can be clearly and consistently communicated.

#### 10. **EVALUATION AND MONITORING.**

- a. **Ongoing Evaluation.** Policies, rules and systems should be rigorously evaluated for effectiveness at preventing youth access and persons 21 and older from

abusing marijuana. Regular data collection, analysis and on-going tracking, monitoring and reporting will be required to ensure this process.

**11. PREVENTION PLAN.** Considerable research exists to prevent youth use of substances and to delay the age of first use. The state of Oregon should use the Strategic Prevention Framework, to develop and implement a comprehensive plan for Youth Marijuana Prevention. The state should engage Cities, Counties and Tribes to carry out the strategies outlined from the strategic plan in their local communities and ensure that sufficient funding is available for a strong prevention system.

**12. FUNDING.** Funds are needed to regulate medical and retail marijuana in a manner that safeguards the public's health and safety. A rigorous review of the funding required to ensure these measures is needed. The allocation of resources should be aligned to meet the need and should be protected from being tapped for other purposes.

### **Background on Marijuana Use in Oregon**

The Oregon Legislature passed House Bill 3460 during the 2014 Legislative Session, legalizing the sale of medical marijuana through a licensing process. During this session, the legislature also passed Senate Bill 1531, allowing governing bodies of cities and counties to adopt ordinances that impose reasonable regulations on the operation of medical marijuana facilities. In November 2014, Oregon voters passed Measure 91 allowing for retail sales of marijuana to persons 21 year of age and older, effective, July 2015.

Research shows that increased availability of any legal or illegal drug will increase use among youth.<sup>5</sup> This is an important factor to address as it is widely understood that drug use during the time that the brain is developing can have significant negative impacts (except for quite limited medical applications). The brain continues to develop through the mid-twenties and studies have shown that both early use (before the age of 18) and heavy regular use of marijuana negatively impact the brain, that the effects are more pronounced for adolescents, and that the effects can persist into adulthood even with sustained abstinence from marijuana use. With early use, these effects include attention deficits<sup>6</sup>, reduced IQ<sup>7</sup>, and reduced executive functioning<sup>8</sup>. With heavy use among teens and young adults, the effects include cognitive deficits in areas such as processing speed<sup>9</sup>, memory<sup>10</sup>, and complex attention, inhibitory control and psychomotor speed<sup>11</sup>

Oregon ranks number six in the Nation for past month marijuana use amongst youth, 12-17 years of age.<sup>12</sup> Research shows that higher addiction rates occur among those who start using marijuana at younger ages. Rates for persons under 18 are 1 in 6 (17%) compared to 1 in 11 (9%) amongst older adults.<sup>13</sup> Nearly 7 out of 10 of all medically necessary drug treatment admissions for youth ages 12-17 are for marijuana.<sup>14</sup> Additionally, higher THC (the intoxicating chemical in marijuana) levels increase the risk of dependence.<sup>15</sup> THC levels have more than doubled since the 1980's.<sup>16</sup>

### **Motor Vehicle Crashes and Drugged Driving**

Use of marijuana impairs driving ability among all individuals and is the illicit drug most frequently reported in connection with impaired driving and crashes in the United States.<sup>17</sup> The risk of a motor-vehicle crash due to impaired driving increases when using marijuana in combination with alcohol. A recently published report from the Rocky Mountain High Intensity Drug Trafficking area on the impact of legalization of marijuana in Colorado found that toxicology reports with positive marijuana results for driving under the influence increased 16% from 2011 to 2013. The report also found a 57% increase in marijuana related emergency room visits and an increase of 82% in hospitalizations related to marijuana between 2008 and 2013.<sup>18</sup>

### **Conclusion**

Increased marijuana use among youth and adults is a public health and public safety concern in Oregon associated with health, safety and social costs. The increased potency of THC levels in marijuana and impact the drug has on the developing brain place vulnerable populations, particularly youth, at a much high risk for developing addiction or dependency. Additionally, with increased use across Oregon we can expect to see additional costs, such as impaired driving crashes and related hospitalizations.

Medical and retail marijuana facilities increase access to the drug, making it more available to Oregon residents, including youth. Current medical marijuana rules governing dispensaries should be strengthened and the development of rules for retail marijuana should be just as strong. All policy restrictions should be modeled after known best practices for substance abuse prevention as demonstrated in this document.

**DATE:** July 20, 2015

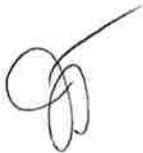
**TO:** Kerry Kemp, Waldport City Manager; Reda Eckerman, City Recorder

**FROM:** Jill Tierce, Library Director

**RE:** Library Board appointment

Please accept the attached note from Brian Fodness as a letter of interest in serving on the Waldport Library Board of Trustees. His term should be 2015 through June 30, 2019.

As you may recall, we will still be short one member unless the Council also appoints a replacement to complete this final year of Vic Bucy's term.



---

**From:** Brian <brianfodness@gmail.com>  
**Date:** July 13, 2015 at 6:13:27 AM PDT  
**To:** "jtierce@waldport.com" <jtierce@waldport.com>  
**Subject:** Waldport Public Library Board

Jill

I am interested in applying for a position on the Waldport Public Library Board. I have been volunteering at the library since 1994 and have participated in many capacities. Your consideration is appreciated. Please let me know if you need further information.

Brian Fodness

PO Box 185  
Seal Rock OR

HAND DELIVERED

Mayor Sue Woodruff and City Council

Chair Ray Woodruff and Waldport Planning Committee

City Manager Kerry Kemp and City Planner Larry Lewis

Greetings:

I have enjoyed my brief time of service on the Waldport Planning Commission. It has been an honor to serve the community I call home.

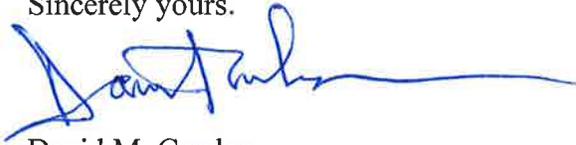
Recently I missed a couple of Planning Commission meeting due to pressing business work issues. This bothers me, as I think when a person makes such a commitment, that person's responsibility is to follow through. My life is full of deadlines and I owe my clients the best effort I can provide.

Two hours on a Monday afternoon (which is often an especially busy day in the legal world) for the meeting time has, I have come to learn, created an increasing burden on my legal work. It is neither fair to the City or my clients for me to stay in place. You might want to consider moving to evening meetings, as many communities do. Since I cannot give up on my clients, I have reached the conclusion that I need to resign from the Planning Commission, effective immediately.

The current members of the Planning Commission are great people and deserve the appreciation of the City Council, our community, and those who need consideration of planning issues.

I wish the Planning Commission and the City the best.

Sincerely yours.

A handwritten signature in blue ink, appearing to read "David M. Gordon", with a long horizontal flourish extending to the right.

David M. Gordon

## Public Works Department Report for the month of June/ July, 2015

<b>Water Treatment Plant</b>	<b>June/July</b>	
Plant Production:	<u>9.48/9.01</u>	MG
Rainfall:	<u>.4/.1</u>	inches

### **Wastewater Treatment Facility**

Effluent Flow:	<u>3.8/3.8</u>	MG
Public works:	<u>05/.1</u>	Inches

### **Public Works Dept.**

Alarm call outs:	<u>3/1</u>
Locates:	<u>8/14</u>
Sewer plugs:	<u>2/1</u>
Water service installations:	<u>0</u>
Sewer connections:	<u>0</u>
Water Leaks:	<u>1/2</u>

### **Department General Overview**

The City of Waldport Public Works Department has been very busy this summer. We spent June & July working on several different projects to ensure clean water, maintained equipment, and up kept streets which make Waldport visually appealing. This summer has been exceptionally sunny which has made the grass grow very rapidly. We have been very busy mowing the public right of ways, sweeping the streets and painting street lines and cross bars. The plant operators refilled the 2 million gallon reservoir and we're currently operating at full potential. Our new mechanic who replaced Darl Kirby has been fitting in well. We are very happy thus far with our decision to hire him.

Administratively, Mike and I have been working very hard planning for our future and direction as a successfully operating department. We have been very busy with organization of the summer rush, catching up with the vacant position we had in our crew as we started our summer. The department is running great and we look forward to the upcoming months.

**City of Waldport  
2015 LAND USE / BUILDING PERMIT ACTIVITY**

<b>Date</b>	<b>Application/ Activity</b>	<b>Applicant</b>	<b>Zoning</b>	<b>Tax Map/Lot Location</b>	<b>Description</b>	<b>Status</b>
<b>For the Period June 1, 2015 through August 7, 2015</b>						
6/2/15	Building Permit	John Townley	R-1	13-11-30BB/2500 1565 Ocean Terrace	Deck foundation repair	Approved 6/5/15
6/2/15	Manufactured Home Placement Permit	Northwest Homes	R-2	13-11-30BA/9600	New manufactured home	Approved 6/5/15
6/2/15	Building Permit	Northwest Homes	R-2	13-11-30BA/9600	New attached garage	Approved 6/5/15
6/16/15	Partition	Zachary Dahl South Lincoln Landfill	I-P	13-11-31B/401 Dahl Avenue Industrial Park	Three-lot partition	Tentative approval 6/22/15
7/7/15	Building Permit	Guy & Donna Hadden	R-2	13-11-20BD/3000 33 Meadowlark Ln	Remodel single family dwelling	Approved 7/17/15
7/9/15	On-Site Waste Management Permit	David & Jean Chamberlain	R-3	13-11-29AB/1314 1680 Rio Vista Peterson Park	Septic system repair/upgrade	Approved 7/17/15
7/9/15	Manufactured Home Placement Permit	David & Jean Chamberlain	R-3	13-11-29AB/1314 1680 Rio Vista Peterson Park	Replace manufactured home	Approved 7/17/15
7/31/15	Building Permit	Nathan Gushwa	R-1	13-11-30BD/700 2040 Crestline Dr	New detached garage	Approved 7/31/15
8/6/15	Building Permit	Ray & Linda Nendel	R-2	13-11-30BA/10000 1255 Wedge Ct Land & Sea Subdiv.	New single family dwelling	Approved 7/7/15

**WALDPORT PLANNING COMMISSION**  
**June 22, 2015**  
**City Council Meeting Room**  
**MEETING MINUTES**

1. **CALL TO ORDER AND ROLL CALL:** Chair Woodruff called the meeting to order at 2:03 p.m. Chair Woodruff and Commissioners Andrew, Hafner, and Gordon answered the roll. Commissioners Egan, Peterson, and Yorks were absent. A quorum was present.

2. **CITIZEN COMMENTS AND CONCERNS:** None.

3. **COMMISSION COMMENTS AND CONCERNS:** None.

4. **MINUTES:** The Commission considered the minutes from the March 23, 2015 Meeting. Commissioner Hafner **moved** to approve the minutes as written. Commissioner Gordon **seconded**, and the motion **carried** unanimously on a voice vote.

5. **CORRESPONDENCE:** None.

6. **PUBLIC HEARING**

Chair Woodruff opened the public hearing, calling for abstentions, bias, conflict of interest, or *ex parte* contact. Commissioner Andrew stated she lives on the street that the subject property is accessed from. No objections were raised to any Commissioner hearing the case.

Staff Report: City Planner Lewis reviewed the staff report, noting that the applicant was requesting approval of a Planned Development for six single family homes/lots on 2.36 acres. Written testimony included one letter included with the staff report, and a second letter that was provided to Commissioners at the meeting.

Applicant Phil Weber presented information and answered questions throughout the hearing via telephone.

Oral testimony was provided by ten people. In summary, questions and concerns about the proposed planned development included the following:

- The nearby property was clear cut. How will drainage be handled?
- The density is too high.
- Public notification of the hearing should be expanded.
- Concern about multiple units.
- Prefer a paved street versus a gravel street.
- The property is included in Norwood Heights Subdivision #2 and #3.
- The Planned Development will change the character of the existing neighborhoods.
- The large number of homes on the street will create traffic problems.
- The dead-end street exceeds a 400 foot length when combined with Skyline Terrace.
- CC&Rs are important. CC&R details are needed. This proposed development essentially changes the Norwood Heights HOA and CC&Rs.
- Who will enforce private street regulations, e.g. 'No Parking'?
- The street width is inadequate.
- The proposed street is very close to houses on Kelsie Lane.
- Review of planned developments throughout the county show that proposed plans tend to diminish between the plan and the eventual reality. How will that be avoided here?
- Will the applicant be living on this property?

- Will there be parking for trail users?
- Topography/slope concerns where houses are proposed.
- Wildlife will be displaced.
- The City should buy the property for open space.
- Having only one road in and out creates evacuation problems.
- Concern about adequate emergency vehicle turnaround at proposed hammerhead.
- Proposed development is out of character with existing neighborhood.
- Substantial increase in traffic.
- Opposed to short-term and long-term rentals.
- Concern about impacts that the street would have to trees on adjacent properties.
- There are safety concerns with the public trail.

In rebuttal, the applicant stated in summary that there are no plans to disturb the south edge of the property, no problem with paving the road, the proposed density is well below the maximum allowed, creating lots similar in size to those on Skyline Terrace would be much more disruptive to the site, and home prices would likely be in the \$260,000 to \$350,000 range.

There were no requests to leave the record open. Following deliberation by the Planning Commission, Commissioner Andrew **moved** to continue the hearing and asked the applicant to provide additional information, i.e. confirmation regarding whether or not the property is part of Norwood Heights CC&Rs, provide draft CC&Rs, and provide draft HOA documents. Commissioner Hafner **seconded** the motion. Chair Woodruff **moved** to amend the motion to include making the additional material accessible to the public, i.e. on the City website. Commissioner Gordon **seconded** the amended motion, and the motion **carried** unanimously on a voice vote. The public hearing will be continued at the July 27, 2015, 2:00 p.m. Planning Commission meeting.

7. DISCUSSION/ACTION ITEMS:

A. Planning Report: Building permit and land use activity for April 21 through June 15, 2015 was reviewed.

B. Other Issues: None.

8. ADJOURNMENT: At 3:30 p.m., there being no further business to come before the Commission, Commissioner Hafner **moved** to adjourn. Commissioner Gordon **seconded**, and the motion **carried** unanimously on a voice vote.

Respectfully submitted,



Reda Q. Eckerman  
City Recorder

APPROVED by the Planning Commission this 27<sup>th</sup> day of July, 2015.

SIGNED by the Chair this 27<sup>th</sup> day of July, 2015.

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Ray Woodruff, Chair



# City of Waldport

P.O. Box 1120  
Waldport, OR 97394  
Phone: (541)264-7417  
Fax: (541)264-7418  
TTY: (800)735-2900

August 6, 2015

Subject: Monthly Report-July 2015

As of today, there have been 66 ordinance cases opened in 2015. Of these 46 have been worked to completion.

These cases breakdown into the following:

Attractive Nuisances	34 (Misc. junk on property)
Nuisance Vehicles	18 (Unlicensed/Inoperable vehicles left on public streets)
Structure/Buildings	6 (Dilapidated/Improperly Maintained)
Others	8 (Vegetation, Business License, Fences, Zoning, ect)

In addition to this there is 1 case open from 2014 for a total of 21 cases being actively worked at this time.

## 380 NW John St.:





# City of Waldport

P.O. Box 1120  
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July 3, 2015

Subject: Monthly Report-June 2015

As of today, there have been 54 ordinance cases opened in 2015. Of these 36 have been worked to completion.

These cases breakdown into the following:

Attractive Nuisances	29 (Misc. junk on property)
Nuisance Vehicles	16 (Unlicensed/Inoperable vehicles left on public streets)
Structure/Buildings	6 (Dilapidated/Improperly Maintained)
Others	3 (Vegetation, Business License, Fences, Zoning, ect)

In addition to this there are still 3 cases open from 2014 for a total of 21 cases being actively worked at this time.

**1525 SE Washington St.:** Property owner lives out of state. Nearly a dozen people had taken up living on the property illegally, trashing the property in the process. Code Enforcement helped property owner to formally evict tenants after which he cleaned up the property which is now ready for new renters.

