



**MARIJUANA SUBCOMMITTEE AGENDA  
DECEMBER 9, 2015, 1:00 PM  
NEWBERG CITY HALL 414 East First Street  
Permit Center Conference Room**

- I. CALL MEETING TO ORDER**
- II. ROLL CALL**
- III. APPROVAL OF MINUTES**
- IV. POTENTIAL DEVELOPMENT CODE REGULATIONS FOR MEDICAL MARIJUANA GROWERS AND PROSESSORS; MODIFICATIONS FOR DISPENSARIES**
- V. FUTURE MEETING SCHEDULE**
- VI. ADJOURNMENT**

*ACCOMMODATION OF PHYSICAL IMPAIRMENTS: In order to accommodate persons with physical impairments, please notify the Planning Division of any special physical or language accommodations you may need as far in advance of the meeting as possible and no later than 48 business hours prior to the meeting. To request these arrangements, please contact the Planning Secretary at (503) 544-7788. For TTY services please dial 711.*





CDD Rux continued by explaining the differences of the application and renewal fees for medical and recreational marijuana. He discussed the differences in location requirements. Recreational marijuana had to have a land use compatibility statement and retailers could be no greater than 1,000 feet apart. Medical marijuana dispensaries had to be more than 1,000 feet apart. Recreational could not be on any federally owned land. A retail marijuana facility could not be at the same location as a liquor store licensed with OLCC or a medical dispensary, and could not have a retailer and processor at the same location nor a retailer and grower at the same location. Producers could not be on public lands and retail could not be in an exclusively residential zone. Recreational products could not be sold between 10 p.m. and 7 a.m. The Council could ban one or more of the four recreational activities, but it would mean the City would not receive State shared revenue on marijuana. Recreational marijuana regulations were more prescriptive on the types of security measures required. Both would have panic buttons. Both had a long list of operational requirements and would be monitored for compliance. He explained the process to get a medical marijuana card, what was allowed on grow sites, that a grower could only grow for no more than four card holders, and each card holder was allowed up to six mature plants. A maximum of 12 mature plants were allowed for those in residential areas and 48 plants if not in a residential area. For recreational, a producer could deliver to processors, wholesalers, retailers, and researchers. For a producer growing outdoors, OLCC regulations would apply to the entire lot. For a producer growing indoors, there had to be an area of separation. There was an opt-in option between medical and recreational so that growers on the medical side could opt-in to be a producer on the recreational side. A producer could not opt-in on the medical side. Retailers could receive product from producers, wholesalers, processors, or laboratories and could sell up to an ounce of usable marijuana or 16 ounces of cannabinoid product in solid form or 72 ounces of cannabinoid in liquid form or five grams in cannabis extract or concentrate or four immature plants or ten marijuana seeds per customer per day. They could not give free samples or giveaways or sell hemp products. The State would collect a tax on retailers. Regarding processing, regulations had to be created for medical marijuana under HB 3400 and for recreational they could process edibles, topical, concentrates, and extracts. Both medical and recreational had testing requirements for the products and processing lots. For packaging and labeling, no packaging was allowed that was attractive to minors.

CDD Rux explained the tracking system for products, transportation and delivery requirements, advertising limitations, and inspections and enforcement. Under recreational, for any of the four categories if someone from the OLCC showed up for an inspection they could not be denied access whether or not they were open for business. Council had banned early recreational sales from medical marijuana dispensaries.

There was discussion regarding permitted and non-permitted paraphernalia, distance from schools, local licensing, testing, violations, location requirements, marijuana in residential areas, and possibly prohibiting producers from growing outdoors.

CDD Rux handed out a medical marijuana grower and processor timeline. Due to the March 1 deadline for operational provisions of medical marijuana, the Subcommittee might want to consider having a program in place to address medical growers and processors. He suggested on December 7, the Council approve an RCA to initiate a Development Code amendment for medical marijuana grower and processor regulations. On December 9, the subcommittee could meet and discuss the regulations. He would have to submit on December 10 to the Department of Land Conservation and Development (DLCD) the 35 day notice for the Development Code change. A Planning Commission public hearing on the change could be held on January 14 and public hearing with the Council on February 1. This would allow them to meet the March 1 deadline.

Councilor Rourke asked about the recreational marijuana timeline. CDD Rux said the Committee would have to decide the frequency of meetings to discuss the issues.



There was consensus to follow the medical marijuana timeline as presented by staff.

**FUTURE MEETING SCHEDULE:**

There was agreement to hold the next subcommittee meeting on December 9 from 1:00 – 3:00 p.m.

**MOTION: Rourke/Bacon** moved to direct staff to prepare an RCA to initiate the Development Code amendment for medical marijuana grower and processor regulations and bring it to the City Council meeting on December 7. Motion carried (3 Yes/0 No).

Councilor Rourke wanted to make sure the Planning Commission was made aware that this was coming. He asked about the schedule for dealing with land use, paraphernalia, and taxation of recreational marijuana.

CDD Rux said in working back from the July 1 deadline, the Council would want to initiate Development Code amendments for recreational marijuana in March.

Councilor Rourke suggested meeting monthly to discuss all of these issues.

CDD Doug Rux thought they could begin to discuss the recreational issues at the January meeting. He would come back with a suggested schedule for 2016 at the next meeting in December.

Mayor Andrews commented on his handout regarding OLCC local government recreational marijuana meetings. He was planning to attend the one in Salem on December 11 and recommended the Subcommittee attend as well. The Subcommittee and CDD Doug Rux would also attend.

**ADJOURNMENT:** Councilor Rourke adjourned the meeting at 3:15 p.m.

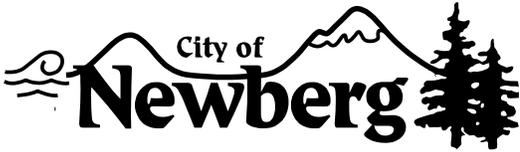
**Approved by the Marijuana Subcommittee this 9 day of December, 2015.**

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Councilor Tony Rourke,  
Marijuana Subcommittee Chair

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Bobbie Morgan, Planning Secretary



**Community Development Department**  
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To: Marijuana Subcommittee  
From: Doug Rux, Community Development Director  
Truman Stone, City Attorney  
Date: December 2, 2015

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At the November 19, 2015 Marijuana Subcommittee (Subcommittee) meeting similarities and differences between medical marijuana and recreational marijuana were reviewed. The Subcommittee subsequently passed a motion 3-0 directing staff to create an RCA to initiate the Development Code Amendment for medical marijuana grower and processor regulations to bring forward for Council consideration on December 7, 2015. That RCA was prepared and will be presented to the City Council on December 7.

In anticipation that the City Council will initiate the Development Code amendment process staff has prepared the following material for your consideration regarding time, place and manner regulations for medical marijuana growers and processors for your December 9<sup>th</sup> meeting.

One additional item has been added to this analysis from the Subcommittee's discussion on November 19. In further review of House Bill (HB) 3400 there were definition changes for schools related to medical marijuana dispensaries. The Bill redefines public primary and secondary schools and provides a definition for private and parochial schools. The former Oregon Revised Statute (ORS) 457 also included a definition for Career School and was deleted by HB 3400. The Oregon Administrative Rule (OAR) Division 8 still has the definition for Career School.

## **DEFINITIONS**

Note: Existing text is shown in regular font.  
Text under consideration to be added is shown in double-underline  
Text under consideration to be deleted is shown in strikethrough.

Possible definitions to consider including in the Development Code include:

### 15.05.030 Definitions

"Medical marijuana dispensary" means a medical marijuana facility registered by the Oregon Health Authority and in compliance with all other provisions of Oregon law.

"School, primary or secondary category" means a category of uses under Chapter 15.303 NMC that includes public and private schools, secular or parochial, at the primary, elementary, middle, junior high, or high school level that provide state mandated basic education primarily to minors.

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“School, career”, for the purposes of medical marijuana dispensaries, means any private proprietary professional, technical, business or other school instruction, organization or person that offers any instruction or training for the purpose or purported purpose of instructing, training or preparing persons for any profession at a physical location attended primarily by minors.

“Medical Marijuana Grow Site” means a location registered under ORS 475.304 where marijuana is produced for use by a registry identification cardholder. [ORS 475.302(7)]

“Grower” has the same meaning as “person responsible for a marijuana grow site.” [OAR 333-088-0010(11); OAR 333-088-1010(16); OAR 333-088-0010(11) Temporary Rule; OAR 333-008-1010(16) Temporary Rule]

“Grow site” means a specific location registered by the Authority and used by the grower to produce marijuana for medical use by a specific patient. [OAR 333-008-0010(9); OAR 333-008-1010(17); OAR 333-008-0010(9) Temporary Rule; OAR 333-008-1010(17) Temporary Rule]

“Grow site registration card” means the card issued to the patient and displayed at the grow site. [OAR 333-008-0010(10); OAR 333-008-0010(10) Temporary Rule]

“Medical marijuana facility” is a facility, registered by the Authority, under OAR 333-008-1050. [OAR 333-008-0010(15)]

“Person responsible for a marijuana grow site” means a person who has been selected by a patient to produce medical marijuana for the patient, and who has been registered by the Authority for this purpose. [OAR 333-008-0010(21); OAR 333-008-0010(21) Temporary Rule]

“Person responsible for a marijuana grow site” means a person who has been selected by a patient to produce medical marijuana for the patient, and who has been registered by the Authority for this purpose and has the same meaning as “grower”. [OAR 333-088-1010 (25)]

“Marijuana processing site” means a marijuana processing site registered under section 85 of this 2015 Act or a site which an applicant has submitted an application for registration under section 85 of this 2015 Act. [HB 3400, Section 80]

“Registry identification cardholder” means a person to who a registry identification card has been issued under ORS 475.309. [HB 3400, Section 80]

“Registry identification cardholder” means a person to who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person’s debilitation medical condition, and who has been issued a registry identification card by the Authority. [OAR 333-008-0010(26); OAR 333-008-0010(26) Temporary Rule]

## **PLACE**

HB 3400, Section 89 allows local governments to regulate the location of marijuana grow sites and processing sites. Specifically the law reads:

### **(Ordinances)**

**SECTION 89.** Section 2, chapter 79, Oregon Laws 2014, is amended to read:

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**Sec. 2.** *[Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of medical marijuana facilities registered, or applying for registration, under ORS 475.314 that are located in the area subject to the jurisdiction of the city or county. For purposes of this section, “reasonable regulations” includes reasonable limitations on the hours during which a medical marijuana facility may be operated, reasonable limitations on where a medical marijuana facility may be located within a zone described in ORS 475.314 (3)(a) and reasonable conditions on the manner in which a medical marijuana facility may dispense medical marijuana.]*

**(1) For purposes of this section, “reasonable regulations” includes:**

**(d) Reasonable limitations on where the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary may be located.**

There are other provisions in HB 3400 that relate to the amount of plants that may be grown that the Subcommittee may want to include in their discussion on the location of grow sites. Below are excerpts from HB 3400. Yellow highlighted text is applicable to grow sites.

### **(Grow Site Possession Limits)**

#### **SECTION 82. ORS 475.320 is amended to read:**

475.320. *[(1)(a) A registry identification cardholder or the designated primary caregiver of the cardholder may possess up to six mature marijuana plants and 24 ounces of usable marijuana.]*

*[(b) Notwithstanding paragraph (a) of this subsection, if a registry identification cardholder has been convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, the registry identification cardholder or the designated primary caregiver of the cardholder may possess one ounce of usable marijuana at any given time for a period of five years from the date of the conviction.]*

*[(2) A person authorized under ORS 475.304 to produce marijuana at a marijuana grow site:]*

*[(a) May produce marijuana for and provide marijuana:]*

*[(A) To a registry identification cardholder or a cardholder’s designated primary caregiver as authorized under this section; or]*

*[(B) If the marijuana is usable marijuana or an immature marijuana plant and the registry identification cardholder authorizes the person responsible for the marijuana grow site to transfer the usable marijuana or immature marijuana plant to a medical marijuana facility registered under ORS 475.314, to the medical marijuana facility.]*

*[(b) May possess up to six mature plants and up to 24 ounces of usable marijuana for each cardholder or caregiver for whom marijuana is being produced.]*

*[(c) May produce marijuana for no more than four registry identification cardholders or designated primary caregivers concurrently.]*

*[(d) Must obtain and display a marijuana grow site registration card issued under ORS 475.304 for each registry identification cardholder or designated primary caregiver for whom marijuana is being produced.]*

*[(e) Must provide all marijuana produced for a registry identification cardholder or designated primary caregiver to the cardholder or caregiver at the time the person responsible for a marijuana grow site ceases producing marijuana for the cardholder or caregiver.]*

*[(f) Must return the marijuana grow site registration card to the registry identification cardholder to whom the card was issued when requested to do so by the cardholder or when the person responsible for a marijuana grow site ceases producing marijuana for the cardholder or caregiver.]*

*[(3) Except as provided in subsections (1) and (2) of this section, a registry identification cardholder, the designated primary caregiver of the cardholder and the person responsible for a marijuana grow site producing*

*marijuana for the registry identification cardholder may possess a combined total of up to six mature plants and 24 ounces of usable marijuana for that registry identification cardholder.]*

*[(4)(a) A registry identification cardholder and the designated primary caregiver of the cardholder may possess a combined total of up to 18 marijuana seedlings or starts as defined by rule of the Oregon Health Authority.]*

*[(b) A person responsible for a marijuana grow site may possess up to 18 marijuana seedlings or starts as defined by rule of the authority for each registry identification cardholder for whom the person responsible for the marijuana grow site is producing marijuana.]*

**(1) Subject to subsection (2) of this section, a registry identification cardholder and the designated primary caregiver of the registry identification cardholder may jointly possess six or fewer mature marijuana plants.**

**(2)(a) A person may be designated to produce marijuana under ORS 475.304 by no more than four registry identification cardholders.**

**(b) A person who is designated to produce marijuana by a registry identification cardholder may produce no more than six mature marijuana plants per registry identification cardholder.**

**(3) If the address of a person responsible for a marijuana grow site under ORS 475.304 is located within city limits in an area zoned for residential use:**

**(a) Except as provided in paragraph (b) of this subsection, no more than 12 mature marijuana plants may be produced at the address; or**

**(b) Subject to subsection (5) of this section, if each person responsible for a marijuana grow site located at the address first registered with the Oregon Health Authority under ORS 475.304 before January 1, 2015, no more than the amount of mature marijuana plants located at that address on December 31, 2014, in excess of 12 mature marijuana plants, not to exceed 24 mature marijuana plants, may be produced at the address.**

**(4) If the address of a person responsible for a marijuana grow site under ORS 475.304 is located in an area other than an area described in subsection (3) of this section:**

**(a) Except as provided in paragraph (b) of this subsection, no more than 48 mature marijuana plants may be produced at the address; or**

**(b) Subject to subsections (5) and (6) of this section, if each person responsible for a marijuana grow site located at the address first registered with the authority under ORS 475.304 before January 1, 2015, no more than the amount of mature marijuana plants located at that address on December 31, 2014, in excess of 48 mature marijuana plants, not to exceed 96 mature marijuana plants, may be produced at the address.**

**(5) If the authority suspends or revokes the registration of a person responsible for a marijuana grow site that is located at an address described in subsection (3)(b) or (4)(b) of this section:**

**(a) No more than 12 mature marijuana plants may be subsequently produced at any address described in subsection (3) of this section at which the person responsible for that marijuana grow site produces marijuana.**

**(b) No more than 48 mature marijuana plants may be subsequently produced at any address described in subsection (4) of this section at which the person responsible for that marijuana grow site produces marijuana.**

**(6) If a registry identification cardholder who designated a person to produce marijuana for the registry identification cardholder pursuant to ORS 475.304 terminates the designation, the person responsible for the marijuana grow site whose designation has been terminated may not be designated to produce marijuana by another registry identification cardholder, except that the person may be designated by another registry identification cardholder if no more than 48 mature marijuana plants are produced at the address for the marijuana grow site at which the person produces marijuana.**

**(7) If a law enforcement officer determines that a registry identification cardholder, the designated primary caregiver of a registry identification cardholder, or a person responsible for a marijuana grow site under ORS 475.304 who grows marijuana for a registry identification cardholder, possesses a number of mature marijuana plants in excess of the quantities specified in this section, the law enforcement officer may confiscate only the excess number of mature marijuana plants.**

**SECTION 82a.** (1) Except as provided in subsection (2) of this section, a registry identification cardholder and the designated primary caregiver of the registry identification cardholder may jointly possess no more than 24 ounces of usable marijuana.

(2) Subject to subsection (3) of this section, a person designated to produce marijuana by a registry identification cardholder may possess the amount of usable marijuana that the person harvests from the person's mature marijuana plants, provided that the person may not possess usable marijuana in excess of the amount of usable marijuana in the person's possession as reported to the Oregon Health Authority under section 81a of this 2015 Act.

**(3) A person designated to produce marijuana by a registry identification cardholder may not possess usable marijuana in excess of:**

**(a) For a marijuana grow site located outdoors, 12 pounds of usable marijuana per mature marijuana plant; or**

**(b) For a marijuana grow site located indoors, six pounds of usable marijuana per mature marijuana plant.**

**SECTION 82b.** The amendments to ORS 475.320 by section 82 of this 2015 Act apply to persons who registered with the Oregon Health Authority under ORS 475.304 before, on or after the operative date specified in section 179 of this 2015 Act.

HB 3400 contains language on medical marijuana processing sites. At this time staff has not identified any OAR language regarding medical marijuana processing sites. The Subcommittee may want to include in their discussion the limitation on processing locations noted in HB 3400. Yellow highlighted text is applicable to processor locations.

### (Medical Marijuana Processors)

**SECTION 85.** (1)(a) The Oregon Health Authority shall establish by rule a marijuana processing site registration system to track and regulate the processing of marijuana by a person responsible for a marijuana processing site.

(b) Except as provided in paragraph (c) of this subsection, a person may not process marijuana unless the person is registered under this section.

(c) Paragraph (b) of this subsection does not apply to the processing of marijuana as provided in sections 3 to 70, chapter 1, Oregon Laws 2015, or as otherwise provided for by the statutory laws of this state.

(2) The registration system established under subsection (1) of this section must require an applicant for a marijuana processing site to submit an application to the authority that includes:

(a) The name of the individual who owns the marijuana processing site or, if a business entity owns the marijuana processing site, the name of each individual who has a financial interest in the marijuana processing site;

(b) The name of the individual or individuals responsible for the marijuana processing site, if different from the name of the individual who owns the marijuana processing site;

(c) The address of the marijuana processing site;

(d) Proof, until January 1, 2020, that each individual responsible for the marijuana processing site has been a resident of this state for two or more years, and proof that each individual responsible for the marijuana processing site is 21 years of age or older;

(e) Documentation, as required by the authority by rule, that demonstrates the marijuana processing site meets the requirements of subsection (3) of this section; and

(f) Any other information that the authority considers necessary.

**(3) To qualify for registration under this section, a marijuana processing site:**

**(a) May not be located in an area that is zoned for residential use if the marijuana processing site processes cannabinoid extracts;**

**(b) Must be registered as a business, or have filed an application to register as a business, with the office of the Secretary of State; and**

**(c) Must meet the requirements of any rule adopted by the authority under subsection (10) of this section .**

**(4)(a) The authority shall conduct a criminal records check under ORS 181.534 for each individual named in an application under subsection (2) of this section.**

**(b) An individual convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not own or be responsible for a marijuana processing site for two years from the date the individual is convicted.**

**(c) An individual convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not own or be responsible for a marijuana processing site.**

**(5) If a person submits the application required under subsection (2) of this section, if the marijuana processing site identified in the application meets the requirements of this section and any rules adopted under this section and if each individual named in the application passes the criminal records check required under subsection (4) of this section, the authority shall register the marijuana processing site and issue proof of registration. Proof of registration must be displayed on the premises of the marijuana processing site at all times.**

**(6) A marijuana processing site that is registered under this section is not required to register with the State Board of Pharmacy under ORS 475.125.**

**(7) The individual or individuals responsible for a marijuana processing site shall maintain documentation of each transfer of usable marijuana, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts.**

**(8) The authority may inspect:**

**(a) The premises of a proposed marijuana processing site or a registered marijuana processing site to ensure compliance with this section and sections 85a and 85b of this 2015**

**Act and any rules adopted under this section and sections 85a and 85b of this 2015 Act; and**

**(b) The records of a registered marijuana processing site to ensure compliance with subsection (7) of this section.**

**(9) Subject to the provisions of ORS chapter 183, the authority may refuse to register an applicant under this section or may suspend or revoke the registration of a marijuana processing site if the authority determines that the applicant, the owner of the marijuana processing site, a person responsible for the marijuana processing site, or an employee of the marijuana processing site, violated a provision of ORS 475.300 to 475.346, a rule adopted under ORS 475.300 to 475.346 or an ordinance adopted pursuant to section 2, chapter 79, Oregon Laws 2014.**

**(10) The authority shall adopt rules to implement this section, including rules that:**

**(a) Require a registered marijuana processing site to annually renew the registration for that site;**

**(b) Establish fees for registering, and renewing the registration of, a marijuana processing site;**

**(c) Require that medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts transferred by a marijuana processing site be tested to ensure the public health and safety; and**

**(d) Impose any other standard on the operation of a marijuana processing site to ensure the public health and safety.**

**SECTION 85a. (1) A marijuana processing site must meet any public health and safety standards established by the Oregon Health Authority by rule related to:**

**(a) Cannabinoid edibles, if the marijuana processing site processes marijuana into cannabinoid edibles;**

**(b) Cannabinoid concentrates, if the marijuana processing site processes marijuana into cannabinoid concentrates;**

**(c) Cannabinoid extracts, if the marijuana processing site processes marijuana into cannabinoid extracts; or**

**(d) Any other type of medical cannabinoid product identified by the authority by rule, if the marijuana processing site processes marijuana into that type of medical cannabinoid product.**

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(2) The authority shall adopt rules to implement this section.

**SECTION 85b.** (1) The Oregon Health Authority shall require by rule a marijuana processing site to submit to the authority for inclusion in the database developed and maintained pursuant to section 85e of this 2015 Act the following information:

- (a) The amount of usable marijuana transferred to the marijuana processing site;
  - (b) The amount and type of medical cannabinoid products transferred by the marijuana processing site;
  - (c) The amount and type of cannabinoid concentrates transferred by the marijuana processing site; and
  - (d) The amount and type of cannabinoid extracts transferred by the marijuana processing site.
- (2) The authority by rule may require a marijuana processing site to submit to the authority for inclusion in the database developed and maintained pursuant to section 85e of this 2015 Act information that is in addition to the information described in subsection (1) of this section as the authority considers necessary to fulfill the authority's duties under section 85 (1) of this 2015 Act. The authority may not employ any method other than that described in this section to obtain information from a marijuana processing site.

**SECTION 85c.** (1) A marijuana processing site may not transfer medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts to a person other than a registry identification cardholder, a designated primary caregiver or a medical marijuana dispensary.

(2) A person other than a marijuana processing site may not transfer medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts to a medical marijuana dispensary.

**SECTION 85d.** Section 85 of this 2015 Act does not apply to a registry identification cardholder or a person who has been designated as a primary caregiver under ORS 475.312 who processes a medical cannabinoid product or a cannabinoid concentrate for a registry identification cardholder.

HB 3400, Section 34 identifies marijuana as a crop for purposes of farm use, farm, farming practice and as farm product as noted below.

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

- (a) A crop for the purposes of "farm use" as defined in ORS 215.203;
  - (b) A crop for purposes of a "farm" and "farming practice," both as defined in ORS 30.930;
  - (c) A product of farm use as described in ORS 308A.062; and
  - (d) The product of an agricultural activity for purposes of ORS 568.909.
- (2) Notwithstanding ORS chapters 195, 196, 197 and 215, the following are not permitted uses on land designated for exclusive farm use:
- (a) A new dwelling used in conjunction with a marijuana crop;
  - (b) A farm stand, as described in ORS 215.213 (1)(r) or 215.283 (1)(o), used in conjunction with a marijuana crop; and
  - (c) A commercial activity, as described in ORS 215.213 (2)(c) or 215.283 (2)(a), carried on in conjunction with a marijuana crop.
- (3) A county may allow the production of marijuana as a farm use on land zoned for farm or forest use in the same manner as the production of marijuana is allowed in exclusive farm use zones under this section and ORS 215.213 and 215.283.

The Newberg Municipal Code states the following:

**15.05.030 Definitions.**

For the purpose of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

“**Horticulture**” means the cultivation of a garden, orchard, or nursery, or the cultivation of flowers, fruits, vegetables, or ornamental plants for commercial purposes. It excludes farm stands or other on-site retail sale of the products.

“**Light manufacturing category**” means a category of uses under Chapter 15.303 NMC that involves manufacturing, processing, fabrication, packaging, or assembly of goods. These types of firms are involved in the secondary processing and assembly of materials and components into finished products, generally for the wholesale market, for transfer to other plants, or to order for firms or consumers. The external impact from these uses is generally less than heavy manufacturing. Outdoor storage and processing of goods and materials is less than 10 percent of the site. Transportation needs are often met by truck. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site (typically fewer than five per day per 1,000 square feet of floor area).

**Use Categories**

**15.303.100 Agricultural uses.**

The following agricultural uses defined in NMC 15.050.030

- A. Horticulture
- B. Livestock and poultry farming.
- C. Home gardening.
- D. Home livestock and poultry raising. [Ord. 2673 § 1 (Exh. A § 5), 9-16-13.]

**15.303.506 Light manufacturing category.**

- A. Characteristics. Light Manufacturing involve manufacturing, processing, fabrication, packaging, or assembly of goods. These types of firms are involved in the secondary processing and assembly of materials and components into finished products, generally for the wholesale market, for transfer to other plants, or to order for firms or consumers. The external impact from these uses is generally less than heavy manufacturing. Outdoor storage and processing of goods and materials is less than 10 percent of the site. Transportation needs are often met by truck. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site (typically fewer than five per day per 1,000 square feet of floor area).
- B. Accessory Uses. Retail sales of goods produced on site, provided the floor area devoted to retail sales is small (less than 10 percent of the floor area, up to 2,000 square feet).
- C. Examples. Instrument and machinery manufacturers, food processors, furniture manufacturers, wineries, wholesale bakeries.
- D. Exclusions. Heavy Manufacturing is a separate category. [Ord. 2763 § 1 (Exh. A § 5), 9-16-13.]

|      | USES                | R-1 | R-2 | R-3  | R-4  | RP   | C-1  | C-2  | C-3  | C-4  | M-1  | M-2  | M-3  | M-4-I | M-4-C | CF   | I    | AR   | AI   | Notes and Special Use Standards |  |
|------|---------------------|-----|-----|------|------|------|------|------|------|------|------|------|------|-------|-------|------|------|------|------|---------------------------------|--|
| 100  | AGRICULTURAL USES   |     |     |      |      |      |      |      |      |      |      |      |      |       |       |      |      |      |      |                                 |  |
| Def. | Horticulture        | P   | P   | P(1)  | P(1)  | P(1) | P(1) | P(1) | P(1) | P(1)                            |  |
|      | INDUSTRIAL USES     |     |     |      |      |      |      |      |      |      |      |      |      |       |       |      |      |      |      |                                 |  |
|      | Light Manufacturing |     |     |      |      |      |      |      |      |      | P    | P    | P    | P     |       |      |      |      |      | P(33)                           |  |

Key:

- P: Permitted use
- S: Special use – Use requires a special use permit
- C: Conditional use – Requires a conditional use permit
- X: Prohibited use
- (#): See notes for limitations

Notes.

- (1) Limited to sites with preexisting agricultural uses, including at time of annexation.
- (33) Must be aviation-related. See Chapter 15.332 NMC.

The following table outlines the various zonings districts and subdistricts contained in the Newberg Municipal Code, Title 15 Development Code, 15.302.010. These are also represented on the Newberg Zoning Map. Grow sites may be allowed outdoors or within a building.

Newberg Zoning Table

|                                |   | Growers |    | Processors |   |     |    |   |   |
|--------------------------------|---|---------|----|------------|---|-----|----|---|---|
|                                |   | YES     | NO | P          | C | YES | NO | P | C |
| <b>Residential</b>             |   |         |    |            |   |     |    |   |   |
| R-1 Low Density Residential    |   |         |    |            |   |     |    |   |   |
| R-2 Medium Density Residential |   |         |    |            |   |     |    |   |   |
| R-3 High Density Residential   |   |         |    |            |   |     |    |   |   |
| AR Airport Residential         |   |         |    |            |   |     |    |   |   |
| RP Residential Professional    |   |         |    |            |   |     |    |   |   |
|                                | <b>Subdistricts</b>                                 |         |    |            |   |     |    |   |   |
|                                | SD/LDR Springbrook District Low Density Residential |         |    |            |   |     |    |   |   |

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|  |  |                |    |                   |   |     |    |   |   |
|--|--|----------------|----|-------------------|---|-----|----|---|---|
|  | R-1/PD Planned Unit Development                      |                |    |                   |   |     |    |   |   |
|  | R-1/0.1 Low Density .1 du/ac                         |                |    |                   |   |     |    |   |   |
|  | R-1/.04 Low Density .4 du/ac                         |                |    |                   |   |     |    |   |   |
|  |  | <b>Growers</b> |    | <b>Processors</b> |   |     |    |   |   |
|  |  | YES            | NO | P                 | C | YES | NO | P | C |
|  | R-1/6.6 Low Density 6.6 du/ac                        |                |    |                   |   |     |    |   |   |
|  | R-1/SP Specific Plan                                 |                |    |                   |   |     |    |   |   |
|  | R-2/PD Planned Unit Development                      |                |    |                   |   |     |    |   |   |
|  | R-2/RD Riverfront District                           |                |    |                   |   |     |    |   |   |
|  | R-2/SP Specific Plan                                 |                |    |                   |   |     |    |   |   |
|  | SD/MMR Springbrook District Mid-Rise Res             |                |    |                   |   |     |    |   |   |
|  | R-3/PD Planned Unit Development                      |                |    |                   |   |     |    |   |   |
|  | RP/SP Specific Plan                                  |                |    |                   |   |     |    |   |   |
|  | RP/LU Residential Professional – Limited Use Overlay |                |    |                   |   |     |    |   |   |
|  |  |                |    |                   |   |     |    |   |   |
|  | <b>Commercial</b>                                    |                |    |                   |   |     |    |   |   |
|  | C-1 Neighborhood Commercial                          |                |    |                   |   |     |    |   |   |
|  | C-2 Community Commercial                             |                |    |                   |   |     |    |   |   |
|  | C-3 Central Business District                        |                |    |                   |   |     |    |   |   |
|  | C-4 Riverfront District                              |                |    |                   |   |     |    |   |   |
|  | SD Springbrook District                              |                |    |                   |   |     |    |   |   |
|  | <b>Subdistricts</b>                                  |                |    |                   |   |     |    |   |   |
|  | C-1/SP Specific Plan                                 |                |    |                   |   |     |    |   |   |
|  | C-2/LU Community Commercial Limited Use              |                |    |                   |   |     |    |   |   |
|  | C-2/PD Planned Unit Development                      |                |    |                   |   |     |    |   |   |
|  | C-2/SP Specific Plan                                 |                |    |                   |   |     |    |   |   |
|  | C-3/LU Central Business District Limited Use Overlay |                |    |                   |   |     |    |   |   |
|  | SD/V Springbrook District – Village                  |                |    |                   |   |     |    |   |   |
|  | SD/NC Springbrook District – Neighborhood Commercial |                |    |                   |   |     |    |   |   |
|  | SD/H Springbrook District - Hospitality              |                |    |                   |   |     |    |   |   |
|  | CC Civic Corridor Overlay                            |                |    |                   |   |     |    |   |   |
|  |  |                |    |                   |   |     |    |   |   |
|  |  |                |    |                   |   |     |    |   |   |
|  |  |                |    |                   |   |     |    |   |   |
|  |  |                |    |                   |   |     |    |   |   |

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|                                   |                                | Growers |    |   |   | Processors |    |   |   |
|-----------------------------------|--------------------------------|---------|----|---|---|------------|----|---|---|
|                                   |                                | YES     | NO | P | C | YES        | NO | P | C |
| <b>Community Facilities</b>       |                                |         |    |   |   |            |    |   |   |
| CF Community Facilities           |                                |         |    |   |   |            |    |   |   |
|                                   | <b>Subdistricts</b>            |         |    |   |   |            |    |   |   |
|                                   | CF/RD Community Facilities     |         |    |   |   |            |    |   |   |
|                                   | Riverfront District            |         |    |   |   |            |    |   |   |
|                                   |                                |         |    |   |   |            |    |   |   |
| <b>Institutional</b>              |                                |         |    |   |   |            |    |   |   |
| I Institutional                   |                                |         |    |   |   |            |    |   |   |
|                                   | <b>Subdistricts</b>            |         |    |   |   |            |    |   |   |
|                                   | IO Institutional Overlay       |         |    |   |   |            |    |   |   |
|                                   |                                |         |    |   |   |            |    |   |   |
| <b>Industrial</b>                 |                                |         |    |   |   |            |    |   |   |
| M-1 Limited Industrial District   |                                |         |    |   |   |            |    |   |   |
| M-2 Light Industrial District     |                                |         |    |   |   |            |    |   |   |
| M-3 Heavy Industrial District     |                                |         |    |   |   |            |    |   |   |
| M-4 Large Lot Industrial District |                                |         |    |   |   |            |    |   |   |
| AI Airport Industrial             |                                |         |    |   |   |            |    |   |   |
| SD Springbrook District           |                                |         |    |   |   |            |    |   |   |
|                                   | <b>Subdistricts</b>            |         |    |   |   |            |    |   |   |
|                                   | M-1/SP Specific Plan           |         |    |   |   |            |    |   |   |
|                                   | SD/E Springbrook Employment    |         |    |   |   |            |    |   |   |
|                                   | Interim Industrial Use Overlay |         |    |   |   |            |    |   |   |
|                                   | AIO Airport Industrial Overlay |         |    |   |   |            |    |   |   |
|                                   |                                |         |    |   |   |            |    |   |   |
| <b>Other</b>                      |                                |         |    |   |   |            |    |   |   |
|                                   | <b>Subdistricts</b>            |         |    |   |   |            |    |   |   |
|                                   | H Historic Landmarks           |         |    |   |   |            |    |   |   |
|                                   | SC Stream Corridor Overlay     |         |    |   |   |            |    |   |   |
|                                   | Bypass Interchange Overlay     |         |    |   |   |            |    |   |   |

**TIME**

HB 3400, Section 89 allows local government to regulate the hours of marijuana grow sites and processing sites. Specifically the law reads:

(Ordinances)

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**SECTION 89.** Section 2, chapter 79, Oregon Laws 2014, is amended to read:

**Sec. 2.** *[Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of medical marijuana facilities registered, or applying for registration, under ORS 475.314 that are located in the area subject to the jurisdiction of the city or county. For purposes of this section, “reasonable regulations” includes reasonable limitations on the hours during which a medical marijuana facility may be operated, reasonable limitations on where a medical marijuana facility may be located within a zone described in ORS 475.314 (3)(a) and reasonable conditions on the manner in which a medical marijuana facility may dispense medical marijuana.]*

**(1) For purposes of this section, “reasonable regulations” includes:**

- (a) Reasonable limitations on the hours during which the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary may operate;**

There are no additional provisions in ORS or OAR’s regarding hours of operation for grow sites or processors. The Subcommittee may want to consider the hours required for grow marijuana which is likely on a 24-hour bases. For processors, if it is considered similar to an industrial operation, the Development Code does not limit hours.

### **MANNER**

HB 3400, Section 89 allows local government to regulate the manner and access hours of marijuana grow sites and processing sites. Specifically the law reads:

#### **(Ordinances)**

**SECTION 89.** Section 2, chapter 79, Oregon Laws 2014, is amended to read:

**Sec. 2.** *[Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of medical marijuana facilities registered, or applying for registration, under ORS 475.314 that are located in the area subject to the jurisdiction of the city or county. For purposes of this section, “reasonable regulations” includes reasonable limitations on the hours during which a medical marijuana facility may be operated, reasonable limitations on where a medical marijuana facility may be located within a zone described in ORS 475.314 (3)(a) and reasonable conditions on the manner in which a medical marijuana facility may dispense medical marijuana.]*

**(1) For purposes of this section, “reasonable regulations” includes:**

- (b) Reasonable conditions on the manner in which a marijuana processing site or medical marijuana dispensary may transfer usable marijuana, medical cannabinoid products, cannabinoid concentrates, cannabinoid extracts, immature marijuana plants and seeds;**
- (c) Reasonable requirements related to the public’s access to the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary;**

**(2) Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of marijuana grow sites of persons designated to produce marijuana by registry identification cardholders, marijuana processing sites and medical marijuana dispensaries that are located in the area subject to the jurisdiction of the city or county.**

There are no additional provisions in ORS or OAR's regarding manner of operation for grow sites or processors. The Subcommittee may want to consider if a grow site can occur outdoors or indoors. If outdoors what type of visual screening or security requirements should be established? For processors should the operation be entirely indoors? There may be other manners of operation the Subcommittee identifies for discussion and consideration.

## MEDICAL MARIJUANA DISPENSARIES

As noted at the beginning of this memo HB 3400 modified the definition for schools related to medical marijuana dispensaries. The Bill redefines public primary and secondary schools and provides a definition for private and parochial schools. The former Oregon Revised Statute (ORS) 457 also included a definition for Career School and was deleted by HB 3400. The Oregon Administrative Rule (OAR) Division 8 still has the definition for Career School.

### (Medical Marijuana Dispensaries)

**SECTION 86.** ORS 475.314, as amended by section 5, chapter 79, Oregon Laws 2014, is amended to read:

Enrolled House Bill 3400 (HB 3400-A) Page 45

475.314. [(1) *The Oregon Health Authority shall establish by rule a medical marijuana facility registration system to authorize the transfer of usable marijuana and immature marijuana plants from:*]

[(a) *A registry identification cardholder, the designated primary caregiver of a registry identification cardholder, or a person responsible for a marijuana grow site to the medical marijuana facility;*  
*or*

[(b) *A medical marijuana facility to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder.*]

**(1)(a) The Oregon Health Authority shall establish by rule a medical marijuana dispensary registration system for the purpose of tracking and regulating the transfer of:**

**(A) Usable marijuana, immature marijuana plants and seeds from registry identification cardholders, designated primary caregivers and persons responsible for marijuana grow sites to medical marijuana dispensaries;**

**(B) Medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts from persons responsible for marijuana processing sites to medical marijuana dispensaries;**  
**and**

**(C) Usable marijuana, immature marijuana plants, seeds, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts from medical marijuana dispensaries to registry identification cardholders and designated primary caregivers.**

**(b) A person may not operate an establishment for the purpose of providing the services described in paragraph (a) of this subsection unless the person is registered under this section.**

**(2) The registration system established under subsection (1) of this section must require an applicant for a medical marijuana [facility] dispensary to submit an application to the authority that includes:**

**(a) The name of the individual who owns the medical marijuana dispensary or, if a business entity owns the medical marijuana dispensary, the name of each individual who has a financial interest in the medical marijuana dispensary;**

[(a)] **(b) The name of the [person] individual or individuals responsible for the medical marijuana [facility] dispensary, if different from the name of the individual who owns the medical marijuana dispensary;**

[(b)] **(c) The address of the medical marijuana [facility] dispensary;**

[(c)] **(d) Proof, until January 1, 2020, that [the person] each individual responsible for the medical marijuana [facility is a resident of Oregon] dispensary has been a resident of this state for two or more years, and proof that each individual responsible for the medical marijuana dispensary is 21 years of age or older;**

[(d)] **(e) Documentation, as required by the authority by rule, that demonstrates the medical marijuana [facility] dispensary meets the [qualifications for a medical marijuana facility as described in] requirements of subsection (3) of this section; and**

[(e)] **(f) Any other information that the authority considers necessary.**

**(3) To qualify for registration under this section, a medical marijuana [facility] dispensary:**

[(a) *Must be located in an area that is zoned for commercial, industrial or mixed use or as agricultural land;*]

**(a) May not be located in an area that is zoned for residential use;**

(b) May not be located at the same address as a marijuana grow site;

(c) Must be registered as a business, or have filed [*a pending*] **an** application to register as a business, with the office of the Secretary of State;

[(d) *Must not be located within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors;*]

**(d) May not be located within 1,000 feet of:**

**(A) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or**

**(B) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a);**

**(e) Must not be located within 1,000 feet of another medical marijuana [facility] dispensary; and**

[(f) *Must comport with rules adopted by the authority related to:*]

[(A) *Installing a minimum security system, including a video surveillance system, alarm system and safe; and*]

[(B) *Testing for pesticides, mold and mildew and the processes by which usable marijuana and immature marijuana plants that test positive for pesticides, mold or mildew must be returned to the registry identification cardholder, the cardholder's designated primary caregiver or the cardholder's registered grower.*]

**(f) Must meet the requirements of any rule adopted by the authority under subsection (10) of this section.**

OAR 333-008-1010

“School, career”, for the purposes of medical marijuana dispensaries, means any private proprietary professional, technical, business or other school instruction, organization or person that offers any instruction or training for the purpose or purported purpose of instructing, training or preparing persons for any profession at a physical location attended primarily by minors.

As noted in the DEFINITION section of the memorandum staff is asking the Subcommittee to consider or not in delating the definition of Career School. It would also require modification to text under 15.305 Zoning Table as noted below:

Notes.

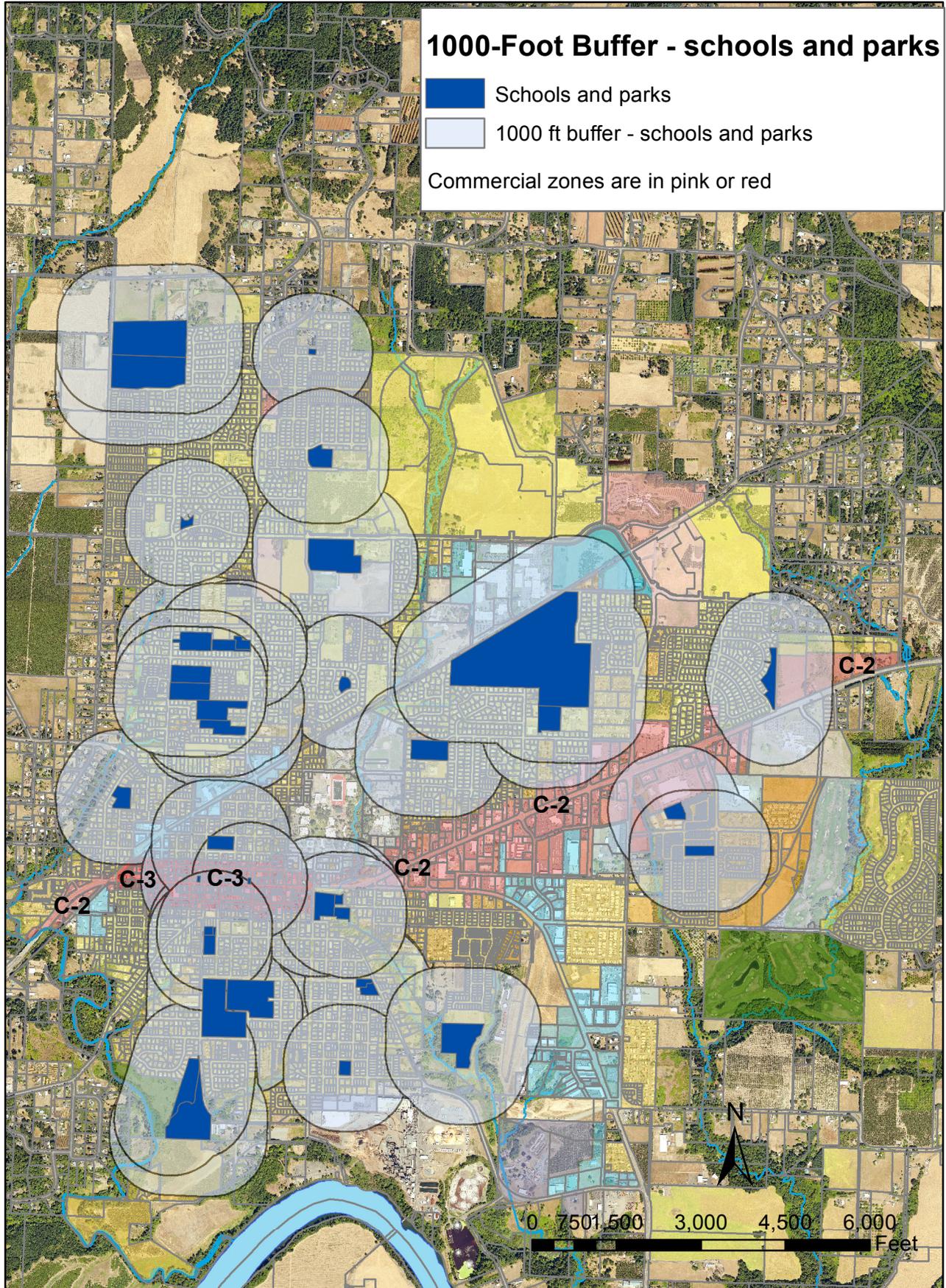
(35) Shall not be located at the same address as a state-registered marijuana grow site, or within 1,000 feet of the real property comprising a public park, a public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a) ~~public or private primary, elementary, secondary or career school~~. Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school or a private or parochial elementary or secondary school ~~private elementary, secondary or career~~

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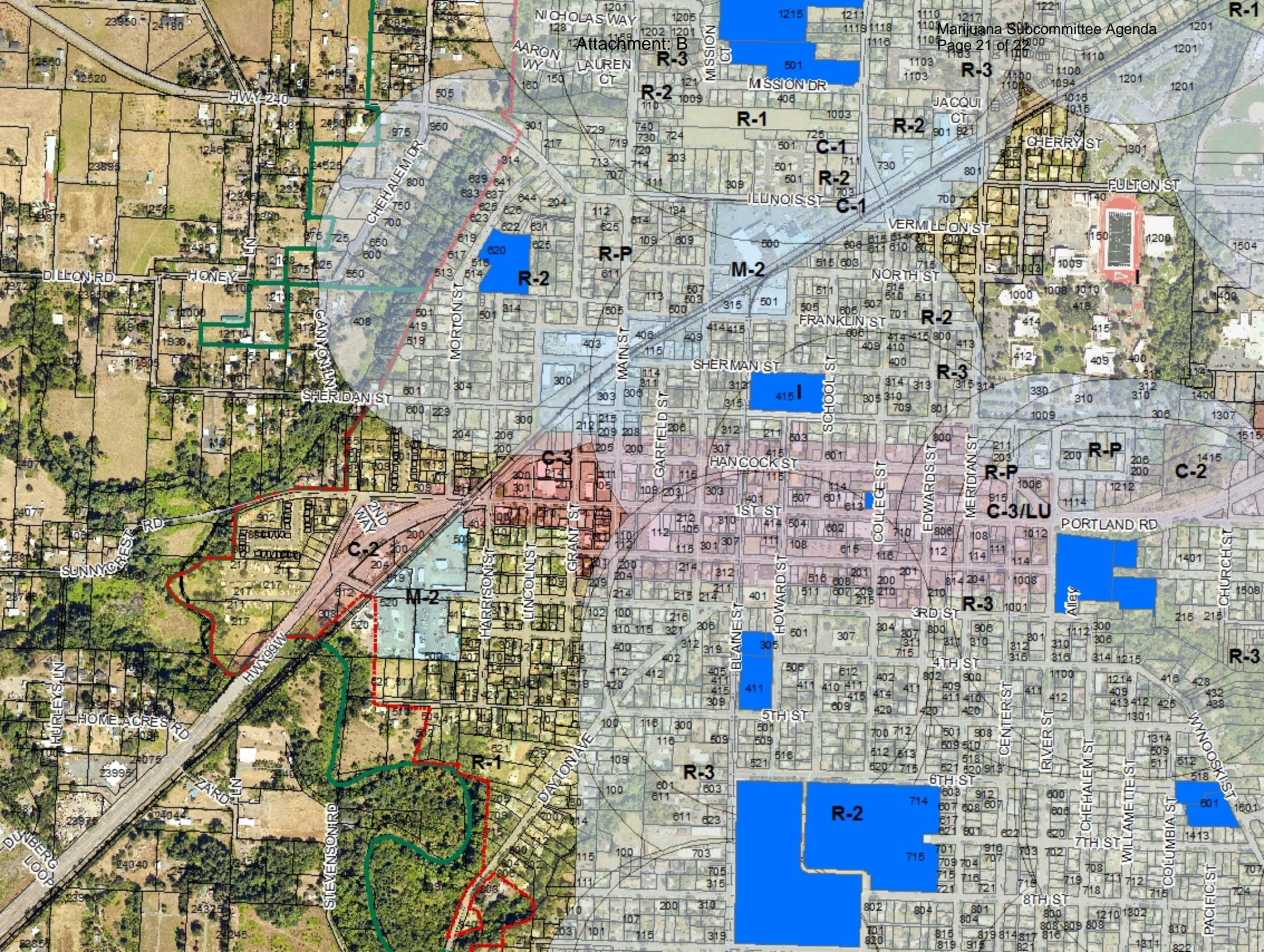
~~school~~ to the closest point of the premises of a dispensary. The premises consist of the dispensary building, or the portion of the building used for a dispensary. Shall not be located within 1,000 feet of another medical marijuana dispensary. Operating hours are limited to the hours between 9:00 a.m. and 8:00 p.m.

The consequence of removal of Career School per the State definition is the Chehalem Valley Dance Academy which was considered a Career School would be removed from our 1,000 foot separation requirement. Attachment 1 is a map that represents the separation requirement from Ordinance No. 2015-2780 in April 2015. Attachment 2 represents the separation requirements removing Career School. The outcome if Career School is removed is that additional land in C-3 in the downtown area west of Main Street would be opened up as a possible location for a dispensary.

Attachments:   1. Buffers per Ordinance No. 2015-2780  
                  2. Buffers if Career School is removed



Attachment: B  
R-3



## Recreational Marijuana, Paraphernalia & Taxes Subcommittee Timeline

12/9/15

January 7, 2016 – Subcommittee reviews Recreational Marijuana

February 4, 2016 – Subcommittee reviews Recreational Marijuana and Paraphernalia

March 3, 2016 – Subcommittee reviews Taxes

March 21, 2016 – City Council initiates Development Code amendment

April 7, 2016 - Department of Land and Conservation and Development 35 day notice.

May 12, 2016 – Planning Commission public hearing and resolution adoption on Development Code Amendment for Recreational Marijuana regulations.

June 6, 2016 – City Council public hearing and ordinance adoption (Emergency clause) on Development Code Amendment for Recreational Marijuana regulations.