



**MARIJUANA SUBCOMMITTEE AGENDA  
JANUARY 12, 2016, 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 RECREATONAL MARIJUANA PRODUCERS AND PROCESSORS**
- V. RECOMMENDATION TO INITIATE DEVELOPMENT CODE AMENDMENT FOR RECREATIONAL MARIJUANA WHOLESALERS, LABORATORIES, RESEARCH CERTIFICATES AND RETAL**
- 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.*



**MARIJUANA SUBCOMMITTEE MEETING  
DECEMBER 9, 2015, 1:00 pm  
Newberg City Hall, 414 East First St  
Permit Center Conference Room**

*Due to recording error minutes recaptured from manual minutes taken at time of meeting.*

Councilor Tony Rourke called the meeting to order at 1:00 p.m.

**ROLL CALL:**

Members Present: Councilor Denise Bacon Councilor Tony Rourke (Chair)  
Councilor Stephen McKinney

Staff Present: Mayor Bob Andrews, Doug Rux, Community Development Director  
Bobbie Morgan, Planning Secretary Truman Stone, City Attorney

**APPROVAL OF MINUTES:** Approval of Marijuana subcommittee meeting held on November 19, 2015  
3/0 approved minutes.

Councilor Rourke comments on tour of the medical marijuana dispensary on Springbrook Road, CDD Doug Rux made comments that staff will organize a tour and coordinate with the subcommittee.

Truman Stone gave handout “Statement on sale of Drug or Marijuana Paraphernalia”.  
Councilor McKinney asked on the number of merchants selling drug paraphernalia.

Councilor Rourke asked for roll call of visitors Colin Staub, Dave, Les Brook, Larry Brock, Jim

**POTENTIAL DEVELOPMENT CODE REGULATIONS FOR MEDICAL MARIJUANA GROWERS AND POSSESSORS; MODIFICATIONS FOR DISPENSARIES:**

CDD Doug Rux provided an overview of the medical marijuana producer and processor definitions from Oregon Revised Statutes, Oregon Administrative Rules, Temporary Oregon Administrative Rules and House Bill 3400.

CDD Doug Rux continued discussing place regulations from House Bill (HB) 3400.

General discussion by subcommittee on:

- Is growing a business transaction between patient and grower?
- Are there any legislative changes forthcoming in the session to begin in February 2016?
- What are extraction processes and do they create odor or noise?
- Can you regulate for noise and odor?
- How much space does 24 plants occupy?
- How much space does 9 plants occupy?



Are existing grow sites grandfathered?  
Do we know where grow sites are located?  
Who owns the plants grown by the grower?  
What happens to the excess marijuana that is produced by the grower?  
Can marijuana extracts be produced in a residential area?  
Are there water or wastewater issues?  
Is a business license from the City required?  
Question on cost of growing?

CDD Rux noted that HB 3400 identifies marijuana as a crop for purposes of farm use, farming practice and as farm product.

Subcommittee general discussion on where we have farming activities with the city limits currently.

Truman Stone made comments on farm crops.

Truman Stone commented on zoning.

Councilor McKinney question on land use regulations. Discussion followed with Truman Stone commenting we are looking at land use – time, place and manner regulations.

Citizen comments: 24 mature plants are about the size of a garage. A 4'x4' area is about 9 plants. You have to have a variety of plant sizes from starts to mature plants. Extraction processes can be either mechanical or chemical based. The medical card holder owns the plants grown by the grower. Excess marijuana is sold to a dispensary.

CDD Rux and Truman Stone indicated there is a transaction between a medical card holder and a grower, it is unknown if there will be any legislative actions on marijuana during the short February session, it may be possible to regulate for noise and odor, existing grow sites may be grandfathered, the Oregon Health Authority does not share the location of confidential medical marijuana grow sites, medical marijuana extracts are not allowed to be processed in a residential area by State law, it is unknown if there are water or wastewater concerns with medical grow sites, a business license is required for anyone who conducts business within the city limits.

1<sup>st</sup> decision how many plants 6 or 12 plants.

Councilor Bacon commented 1-2 people or 3-4 people.

Councilor Rourke indicated ok with split between 1-2 people and 3-4 people. He would lean towards split between 2-3 people and regulate plants and not people.

Truman Stone stated CDD Rux and he could draft a definition. Mr. Stone also asked for clarification is up to 12 planets or greater than 12 plants?

Councilor Rourke question on conditional use process. CDD Doug Rux answered conditional uses go to the Planning Commission for review at a public hearing.

Councilor McKinney had a question on PGE and electrical issues, CDD Doug Rux answered PGE would have to address their electrical system.

Councilor Rourke asked for a motion.



Councilor Bacon made a motion to allow up to 12 plants in residential R-1, R-2 and R-3 or two patients. Above that be a conditional uses in all other zones. 2<sup>nd</sup> by Councilor Rourke. Motion by Councilor Bacon to amend the original motion to include the word “mature” between “12 plants”. 2<sup>nd</sup> Councilor Rourke. Vote passed 3/0 on amendment. Councilor’s discussion, Vote passed 3/0.

Councilor Rourke continued medical marijuana grower time and manner limitations.  
Dave (Citizen) commented may want to look at lighting issues.  
Councilor Rourke commented time limitations seems inappropriate to regulate.

Councilor Rourke continued discussion on manner regulations.  
Councilor Rourke commented on clarification of structure.  
CDD Doug Rux answered a structure s anything built and put together.

Councilor Rourke moved to add foot note to exclude outdoor growing in all zones, discussion. Motion failed for a lack of second.

Councilor Rourke continued manner discussion. Councilor McKinney made a motion in R-1, R-2 and R-3 indoor operations only, 2<sup>nd</sup> by Councilor Bacon 3/0 vote.

Councilor Rourke continued and asked for recommendations.

Councilor Rourke moved processors be allowed in industrial zones and light manufacturing. Councilor Bacon 2<sup>nd</sup> motion. Councilor Rourke made a motion to amend the original motion to clarify M-1, M-2, M-3, AI and SD. Councilor Bacon 2<sup>nd</sup>.

Councilor Rourke asked for further discussion, vote 2/1 passed Councilor McKinney against.

CDD Rux provided background on HB 3400 changes to career school for medical marijuana dispensaries. Career school has been deleted as a definition and replaced with a new definition for primary/secondary schools and private/parochial schools. Administrative Rule still has the definition of career school. CDD Rux went over the maps in the packet and the area that would change if career school was removed from the definition for a 1,000 foot separation to a medical marijuana dispensary.

Councilor Bacon made a motion to remove career schools and change definition and to adopt a new definition of primary and secondary, and private parochial schools.

Councilor McKinney had question on home school and if they were included in the definition. CDD Rux indicated no and read the ORS 339 provision for schools.

Council Rourke 2<sup>nd</sup> to motion to remove career schools and change and change the definition and to adopt a new definition of primary and secondary, and private parochial schools. 2/1 passed Councilor McKinney against.

#### **FUTURE MEETING SCHEDULE:**

CDD Rux continued and indicated new information was available on the Oregon Liquor Control Commission (OLCC) timeline for issuing licenses. Information indicates that OLCC will be in a position to issue licenses to producers and processors in the 2Q of 2016 (April – June). He shared a revised schedule to initiate a development



code amendment on January 4, 2016. The Department of Land Conservation and Development notice would be required on either January 6 or 20; Planning Commission hearing on either February 11 or 25 and a City Council hearing on either March 7 or 21.

The subcommittee discussed the timeline options. Would the Planning Commission be able to meet on February 25? CDD Rux will ask the Planning Commission on December 10 about their availability for a February 25 meeting.

Councilor Rourke moved to direct staff to prepare an RCA to start development code process for recreational growers and processors, discussion followed on starting or initiating the amendment.

Councilor Rourke amend motion, moved to direct staff to prepare an RCA to initiate a development code process for recreational growers and processors, Councilor Bacon 2<sup>nd</sup> motion 3/0 passed

Councilor Rourke commented on trip Friday. OLCC will be holding a briefing at 7:30 am in Salem. The subcommittee will meet at 6:30 am at City Hall to go to Salem.

Councilor Rourke had request that notebooks be provided for subcommittee material.

**ADJOURNMENT:** Councilor Rourke adjourned the meeting at 3:12 p.m.

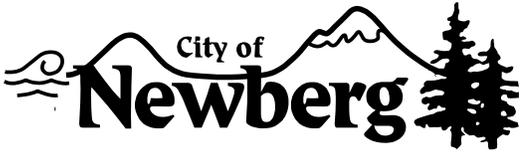
**Approved by the Marijuana Subcommittee this 7 day of January, 2016.**

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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 31, 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 on December 9, 2015 directing staff to create a Request for Council Action (RCA) to initiate a Development Code amendment for recreational marijuana producer and processor regulations to bring forward for Council consideration on January 4, 2016. That RCA was prepared and will be presented to the City Council on January 4.

In anticipation that the City Council will initiate the Development Code amendment process, staff has prepared the following material for your consideration regarding place, time and manner regulations for recreational marijuana producers and processors for your January 7<sup>th</sup> meeting. To assist the Subcommittee, text has been highlighted which may be of importance for consideration. It is also important to note that in the Subcommittee's consideration of place, time and manner regulations banning any one of the categories (producer, processor, wholesaler and retailer) will exclude a local government from revenue sharing from the state tax imposed on marijuana sales.

## **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

“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.

[(17)] (18) “Marijuana processor” means a person who processes marijuana items in this state. [HB 3400, Section 1]

(29) “Marijuana processor” means a person who processes marijuana items in this state [OAR 845-025-1015 Temporary Rule]

[(18)] (19) “Marijuana producer” means a person who produces marijuana in this state. [HB 3400, Section 1]

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(30) "Marijuana producer" means a person who produces marijuana in this state. [OAR 845-025-1015 Temporary Rule]

(38) "Premises" or "licensed premises" includes the following areas of a location licensed under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015: (a) All public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms; (b) All areas outside a building that the Commission has specifically licensed for the production, processing, wholesale sale or retail sale of marijuana items; and (c) For a location that the Commission has specifically licensed for the production of marijuana outside a building, the entire lot or parcel, as defined in ORS 92.010, that the licensee owns, leases or has a right to occupy. (d) "Premises" or "licensed premises" does not include a primary residence. [OAR 845-025-1015, Temporary Rule]

(40) "Processes" (a) "Processes" means the processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts; (b) "Processes" does not include packaging or labeling. [OAR 845-025-1015 Temporary Rule]

(42) "Producer" means a marijuana producer licensed by the Commission. [OAR 845-025-1015 Temporary Rule]

(43) "Produces" (a) "Produces" means the manufacture, planting, cultivation, growing or harvesting of marijuana. (b) "Produces" does not include: (A) The drying of marijuana by a marijuana processor, if the marijuana processor is not otherwise producing marijuana; or (B) The cultivation and growing of an immature marijuana plant by a marijuana processor, marijuana wholesaler or marijuana retailer if the marijuana processor, marijuana wholesaler or marijuana retailer purchased or otherwise received the plant from a licensed marijuana producer. [OAR 845-025-1015 Temporary Rule]

## **PLACE**

HB 3400, Section 33 allows local governments to regulate the location of marijuana producer and processor sites. Specifically the law reads:

### **(Land Use)**

**SECTION 33.** Section 59, chapter 1, Oregon Laws 2015, is amended to read:

**Sec. 59.** *[(1) Cities and counties may adopt reasonable time, place and manner regulations of the nuisance aspects of establishments that sell marijuana to consumers if the city or county makes specific findings that the establishment would cause adverse effects to occur.]*

*[(2) The authority granted to cities and counties by this section is in addition to, and not in lieu of, the authority granted to a city or county under its charter and the statutes and Constitution of this state.]*

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

**(g) Reasonable limitations on where a premises for which a license may be issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, may be located.**

Oregon Laws 2015, Chapter 1 as related to Production license and Processor license states:

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SECTION 19. Production license. (1) The production of marijuana is subject to regulation by the Oregon Liquor Control Commission. (2) A marijuana producer must have a production license issued by the commission for the premises at which the marijuana is produced.

SECTION 20. Processor license. (1) The processing of marijuana items is subject to regulation by the Oregon Liquor Control Commission. (2) A marijuana processor must have a processor license issued by the commission for the premises at which marijuana items are processed.

## GENERAL REQUIREMENTS APPLICABLE TO ALL MARIJUANA LICENSES

### OAR 845-025-1115

**Denial of Application** (1) The Commission must deny an initial or renewal application if:

(a) An applicant is under the age of 21 or, until January 1, 2020, has not been a resident of Oregon for at least two years. If the Commission determines that an applicant is a non-resident the Commission will hold that application under review until 30 days after the 2016 Oregon Legislature adjourns.

(b) The applicant's land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.

(c) The proposed licensed premises is located:

(A) On federal property.

(B) At the same physical location or address as a:

(i) Medical marijuana grow site registered under ORS 475.304, unless the grow site is also licensed under section 116, chapter 614, Oregon laws 2015;

(ii) Medical marijuana processing site registered under section 85, chapter 614, Oregon Laws 2015; or

(iii) Medical marijuana dispensary registered under ORS 475.314.

(C) At the same physical location or address as a liquor licensee licensed under ORS chapter 471 or as a retail liquor agent appointed by the Commission.

(d) The proposed licensed premises of a producer applicant is:

(A) On public land; or

(B) On the same tax lot or parcel as another producer licensee under common ownership.

(e) The proposed licensed premises of a processor who has applied for an endorsement to process extracts is located in an area that is zoned exclusively for residential use.

### OAR 845-025-1230

**Licensed Premises Restrictions and Requirements** (1) A licensed premises may not be located:

(a) On federal property; or

(b) At the same physical location or address as a:

(A) Medical marijuana grow site registered under ORS 475.304, unless the grow site is also licensed under section 116, chapter 614, Oregon Laws 2015;

(B) Medical marijuana processing site registered under section 85, chapter 614, Oregon Laws 2015; or

(C) Medical marijuana dispensary registered under ORS 475.314.

(D) Liquor licensee licensed under ORS Chapter 471 or as a retail liquor agent appointed by the Commission.

(2) The licensed premises of a producer applicant may not be on:

(a) Public land; or

(b) The same tax lot or parcel as another producer licensee under common ownership.

(4) The licensed premises of a processor who has an endorsement to process extracts may not be located in an area that is zoned exclusively for residential use.

(5) The licensed premises of a processor, wholesaler, laboratory and retailer must be enclosed on all sides by permanent walls and doors.

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(11) The general public is not permitted in limited access areas on a licensed premises, except for the licensed premises of a retailer and as provided by section (14) of this rule. In addition to licensee representatives, the following individuals are permitted to be present in limited access areas on a licensed premises, subject to the requirements in section (12) of this rule:

- (a) Laboratory personnel, if the laboratory is licensed by the Commission;
- (b) A contractor, vendor or service provider authorized by a licensee representative to be on the licensed premises;
- (c) Another licensee or that licensee's representative;
- (d) Up to seven invited guests per week subject to requirements of section (12) of this rule; or (e) Tour groups as permitted under section (14) of this rule.

(12) Prior to entering a licensed premises all visitors permitted by section (11) of this rule must be documented and issued a visitor identification badge from a licensee representative that must remain visible while on the licensed premises. A visitor badge is not required for government officials. All visitors described in subsection (11) of this rule must be accompanied by a licensee representative at all times.

## RECREATIONAL MARIJUANA PRODUCERS

### OAR 845-025-2000

**Definitions** As used in OAR 845-025-2000 to 845-025-2080:

(1) "Canopy" means the surface area utilized to produce mature marijuana plants calculated in square feet and measured using the outside boundaries of any area that includes mature marijuana plants including all of the space within the boundaries.

(2) "Indoor production" means producing marijuana in any manner:

- (a) Utilizing artificial lighting on mature marijuana plants; or
- (b) Other than "outdoor production" as that is defined in this rule.

(3) "Outdoor production" means producing marijuana:

- (a) In an expanse of open or cleared ground; or
- (b) In a greenhouse, hoop house or similar non-rigid structure that does not utilize any artificial lighting on mature marijuana plants, including but not limited to electrical lighting sources.

HB 3400, Section 14 limits where processing extracts can occur. The law reads:

### (License Holders)

**SECTION 14.** Section 20, chapter 1, Oregon Laws 2015, is amended to read:

**Sec. 20.** (1) The processing of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana processor must have a processor license issued by the commission for the premises at which marijuana items are processed. **To hold a processor license under this section, a marijuana processor:**

(a) **Must apply for a license in the manner described in section 28, chapter 1, Oregon Laws 2015;**

(b) **Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under section 28, chapter 1, Oregon Laws 2015, has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older;**

(c) **If the marijuana processor processes marijuana extracts, may not be located in an area zoned exclusively for residential use; and**

(d) **Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.**

(3) **The commission shall adopt rules that:**

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- (a) Require a marijuana processor to annually renew a license issued under this section;
- (b) Establish application, licensure and renewal of licensure fees for marijuana processors;
- (c) Require marijuana processed by a marijuana processor to be tested in accordance with section 92 of this 2015 Act; and
- (d) Require a marijuana processor to meet any public health and safety standards and industry best practices established by the commission by rule related to:
  - (A) Cannabinoid edibles;
  - (B) Cannabinoid concentrates;
  - (C) Cannabinoid extracts; and
  - (D) Any other type of cannabinoid product identified by the commission by rule.
- (4) Fees adopted under subsection (3)(b) of this section:
  - (a) May not exceed the cost of administering sections 3 to 70, chapter 1, Oregon Laws 2015, with respect to marijuana processors; and
  - (b) Shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.

HB 3400, Section 34 identifies marijuana as a crop for purposes of farm use, farm, farming practice and as farm product as noted below. This section also requires a land use compatibility statement prior to issuance of any license.

(Land Use)

**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.**
- (4)(a) Prior to the issuance of a license under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, the Oregon Liquor Control Commission shall request a land use compatibility statement from the city or county that authorizes the land use. The land use compatibility statement must demonstrate that the requested license is for a land use that is allowable as a permitted or conditional use within the given zoning designation where the land is located. The commission may not issue a license if the land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.**
- (b) A city or county that receives a request for a land use compatibility statement under this subsection must act on that request within 21 days of:**
  - (A) Receipt of the request, if the land use is allowable as an outright permitted use; or**
  - (B) Final local permit approval, if the land use is allowable as a conditional use.**
- (c) A city or county action concerning a land use compatibility statement under this subsection is not a land use decision for purposes of ORS chapter 195, 196, 197 or 215.**

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HB 3400 allows opt-in for medical marijuana grow sites to also produce recreational marijuana. The law reads:

**MEDICAL MARIJUANA GROW SITE OPT-IN  
OPERATIVE JANUARY 1, 2016**

**SECTION 116. (1) A person responsible for a marijuana grow site under ORS 475.304 may apply for a license under section 19, chapter 1, Oregon Laws 2015, to produce marijuana at the address of the marijuana grow site, provided that all individuals registered with the Oregon Health Authority to produce marijuana at the address are listed on the application submitted to the Oregon Liquor Control Commission under section 28, chapter 1, Oregon Laws 2015.**

(2) Notwithstanding any other provision of sections 3 to 70, chapter 1, Oregon Laws 2015, the commission may issue a license under section 19, chapter 1, Oregon Laws 2015, to a person responsible for a marijuana grow site under ORS 475.304 if the person responsible for the marijuana grow site:

(a) Meets any criminal background check requirements established by the commission by rule;

(b) Agrees to be subject to the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, including section 59, chapter 1, Oregon Laws 2015, and section 34 of this 2015 Act, and rules adopted under sections 3 to 70, chapter 1, Oregon Laws 2015, that apply to marijuana producers; and

(c) Submits proof, in a form and manner prescribed by the commission, of having obtained the permission to apply for licensure under section 19, chapter 1, Oregon Laws 2015, of each individual who holds a registry identification card issued under ORS 475.309 for whom the person produces marijuana at the address of the marijuana grow site.

(3) The commission by rule or order may waive the application of any rule adopted under sections 3 to 70, chapter 1, Oregon Laws 2015, to a person responsible for a marijuana grow site that holds a license under section 19, chapter 1, Oregon Laws 2015.

(4) A person responsible for a marijuana grow site that holds a license under section 19, chapter 1, Oregon Laws 2015:

(a) May not possess more than the amount or number of marijuana plants permitted pursuant to ORS 475.300 to 475.346;

(b) Must allow each marijuana plant to be tracked using the system developed and maintained under section 23 of this 2015 Act;

(c) May sell immature marijuana plants and usable marijuana in excess of amounts produced for individuals who hold a registry identification card issued under ORS 475.309 to

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a person who holds a license under section 20, 21 or 22, chapter 1, Oregon Laws 2015, in accordance with rules adopted by the commission; and

(d) May transfer marijuana and usable marijuana to other registrants under ORS 475.300 to 475.346 in accordance with rules adopted by the authority.

(5) In a form and manner prescribed by the commission, a person responsible for a marijuana grow site that holds a license under section 19, chapter 1, Oregon Laws 2015, may surrender the person's license. If the person surrenders the person's license, the person is no longer subject to the provisions of this section.

(6) Notwithstanding ORS 475.331, the authority may provide information to the commission as is necessary for the commission to determine whether a person responsible for a marijuana grow site that holds a license under section 19, chapter 1, Oregon Laws 2015, is in compliance with this section.

(7) This section does not prohibit or otherwise restrict the duties, functions and powers of a person responsible for a marijuana grow site as set forth in ORS 475.300 to 475.346, except that the person is not subject to any requirement related to the reporting or tracking of mature marijuana plants and usable marijuana.

The Newberg Municipal Code states the following regarding horticulture and light manufacturing:

**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

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- 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)												
	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 zoning 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. The table is a format to consider where producers and processors might be allowed within the City. Recreational producers may be allowed outdoors or indoors by Statute and Administrative Rule. Processors are likely to operate entirely indoors.

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Newberg Zoning Table

		Producer				Processor			
		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								
	R-1/PD Planned Unit Development								
	R-1/0.1 Low Density .1 du/ac								
	R-1/.04 Low Density .4 du/ac								
	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								

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		Producer				Processors			
		YES	NO	P	C	YES	NO	P	C
	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								
<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								

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		Producer				Processors			
		YES	NO	P	C	YES	NO	P	C
<b>Other</b>									
	<b>Subdistricts</b>								
	H Historic Landmarks								
	SC Stream Corridor Overlay								
	Bypass Interchange Overlay								

**TIME**

HB 3400, Section 33 allows local government to regulate the manner and access of marijuana producers and processors sites. Specifically the law reads:

**SECTION 33.** Section 59, chapter 1, Oregon Laws 2015, is amended to read:  
**Sec. 59.** [(1) *Cities and counties may adopt reasonable time, place and manner regulations of the nuisance aspects of establishments that sell marijuana to consumers if the city or county makes specific findings that the establishment would cause adverse effects to occur.*] [(2) *The authority granted to cities and counties by this section is in addition to, and not in lieu of, the authority granted to a city or county under its charter and the statutes and Constitution of this state.*]

- (1) For purposes of this section, “reasonable regulations” includes:**
  - (a) Reasonable conditions on the manner in which a marijuana producer licensed under section 19, chapter 1, Oregon Laws 2015, may produce marijuana;**
  - (b) Reasonable conditions on the manner in which a marijuana processor licensed under section 20, chapter 1, Oregon Laws 2015, may process marijuana;**
  - (f) Reasonable requirements related to the public’s access to a premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015; and**
- (2) Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of businesses located at premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, if the premises are located in the area subject to the jurisdiction of the city or county, except that the governing body of a city or county may not adopt an ordinance that prohibits a premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015, from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015.**
- (3) Regulations adopted under this section must be consistent with city and county comprehensive plans and zoning ordinances and applicable provisions of public health and safety laws.**

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

## MANNER

HB 3400, Section 33 allows local government to regulate the manner of marijuana producers and processors sites. Specifically the law reads:

**SECTION 33.** Section 59, chapter 1, Oregon Laws 2015, is amended to read:

**Sec. 59.** [(1) *Cities and counties may adopt reasonable time, place and manner regulations of the nuisance aspects of establishments that sell marijuana to consumers if the city or county makes specific findings that the establishment would cause adverse effects to occur.*]

[(2) *The authority granted to cities and counties by this section is in addition to, and not in lieu of, the authority granted to a city or county under its charter and the statutes and Constitution of this state.*]

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

**(a) Reasonable conditions on the manner in which a marijuana producer licensed under section 19, chapter 1, Oregon Laws 2015, may produce marijuana;**

**(b) Reasonable conditions on the manner in which a marijuana processor licensed under section 20, chapter 1, Oregon Laws 2015, may process marijuana;**

**(f) Reasonable requirements related to the public’s access to a premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015; and**

**(2) Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of businesses located at premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, if the premises are located in the area subject to the jurisdiction of the city or county, except that the governing body of a city or county may not adopt an ordinance that prohibits a premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015, from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015.**

**(3) Regulations adopted under this section must be consistent with city and county comprehensive plans and zoning ordinances and applicable provisions of public health and safety laws.**

HB 3400, Section 13 authorizes OLCC to limit mature grow canopies. The law reads:

### (License Holders)

**SECTION 13. (1) Subject to subsection (2) of this section, the Oregon Liquor Control Commission shall adopt rules restricting the size of mature marijuana plant grow canopies at premises for which a license has been issued under section 19, chapter 1, Oregon Laws 2015. In adopting rules under this subsection, the commission shall:**

**(a) Limit the size of mature marijuana plant grow canopies, for premises where marijuana is grown outdoors and for premises where marijuana is grown indoors, in a manner calculated to result in premises that produce the same amount of harvested marijuana leaves and harvested marijuana flowers regardless of whether the marijuana is grown outdoors or indoors.**

**(b) Adopt a tiered system under which the permitted size of a marijuana producer’s mature marijuana plant grow canopy increases at the time of licensure renewal under section 19, chapter 1, Oregon Laws 2015, except that the permitted size of a marijuana producer’s**

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**mature marijuana plant grow canopy may not increase following any year during which the commission disciplined the marijuana producer for violating a provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or a rule adopted under a provision of sections 3 to 70, chapter 1, Oregon Laws 2015.**

**(c) Take into consideration the market demand for marijuana items in this state, the number of persons applying for a license under section 19, chapter 1, Oregon Laws 2015, and to whom a license has been issued under section 19, chapter 1, Oregon Laws 2015, and whether the availability of marijuana items in this state is commensurate with the market demand.**

**(2) This section does not apply to a premises for which a license has been issued under section 19, chapter 1, Oregon Laws 2015, if the premises is used only to propagate immature marijuana plants.**

## **GENERAL REQUIREMENTS APPLICABLE TO ALL MARIJUANA LICENSEES**

### **OAR 845-025-1030 Application Process**

**(g) For producers:**

**(A) The proposed canopy size and tier as described in OAR 845-025-2040 and a designation of the canopy area within the license premises.**

**(B) A report describing the applicant's electrical and water usage, on a form prescribed by the Commission. The report must describe the estimated water usage taking into account all portions of the premises and expected requirements of the operation.**

**(C) A description of the growing operation including growing media, a description of equipment to be used in the production, and whether production will be indoor, outdoor or both.**

**(D) A water right permit or certificate number; a statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or proof from the Oregon Water Resources Department that the water to be used for production is from a source that does not require a water right.**

**(h) For processors:**

**(A) On a form prescribed by the Commission, the proposed endorsements as described in OAR 845-025-3210.**

**(B) A description of the type of products to be processed, a description of equipment to be used, including any solvents, gases, chemicals or other compounds used to create extracts or concentrates.**

### **OAR 845-025-1060**

**Fees (1) At the time of initial license or certificate application an applicant must pay a \$250 nonrefundable application fee.**

**(2) If the Commission approves an application and grants an annual license, the following fees must be paid, prorated for an initial license that is issued for six months or less:**

**(a) Producers:**

**(A) Tier I \$3,750**

**(B) Tier II \$5,750**

**(b) Processors: \$4,750**

### **OAR 845-025-1295**

**Local Ordinances** The Commission may impose a civil penalty, suspend or cancel any licensee for failure to comply with an ordinance adopted by a city or county pursuant to section 34, chapter 614, Oregon Laws 2015 if the city or county:

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- (1) Has provided the licensee with due process substantially similar to the due process provided to a licensee under the Administrative Procedures Act, ORS 183.413 to 183.470; and
- (2) Provides the Commission with a final order that is substantially similar to the requirements for a final order under ORS 183.470 that establishes that the licensee has violated the local ordinance.

## SECURITY

### OAR 845-025-1470

**Producer Security Requirements** (1) In addition to the security requirements in OAR 845-025-1400 to 845-025-1460, a producer must effectively prevent public access and obscure from public view all areas of marijuana production. A producer may satisfy this requirement by:

- (a) Submitting a security plan as described in OAR 845-025-1400;
  - (b) Fully enclosing indoor production on all sides so that no aspect of the production area is visible from the exterior satisfies; or
  - (c) Erecting a solid wall or fence on all exposed sides of an outdoor production area that is at least eight (8) feet high.
- (2) If a producer chooses to dispose of usable marijuana by any method of composting, as described in OAR 845-025-7750, the producer must prevent public access to the composting area and obscure the area from public view.

## HEALTH AND SAFETY

### OAR 845-025-1600

#### State and Local Safety Inspections

- (1) All marijuana licensees may be subject to inspection of licensed premises by state or local government officials to determine compliance with state or local health and safety laws.
- (2) A licensee must contact any utility provider to ensure that the licensee complies with any local ordinance or utility requirements such as water use, discharge into the sewer system, or electrical use.

## RECREATIONAL MARIJUANA PRODUCERS

### OAR 845-025-2020

#### Producer Privileges

- (1) A producer may only plant, cultivate, grow, harvest and dry marijuana in the manner approved by the Commission and consistent with chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015 and these rules.
- (2) A producer may engage in indoor or outdoor production of marijuana, or a combination of the two.
- (3) A producer may sell or deliver:
  - (a) Usable marijuana to the licensed premises of a marijuana processor, wholesaler, retailer, laboratory, or research certificate holder;
  - (b) Dried mature marijuana plants that have been entirely removed from any growing medium to the licensed premises of a marijuana processor or research certificate holder; or
  - (c) Immature marijuana plants and seeds to the licensed premises of a marijuana producer, wholesaler, retailer or research certificate holder.
- (4) A producer may not sell a mature marijuana plant other than as provided in section (3)(b) of this rule.
- (5) A producer may provide a sample of usable marijuana to a marijuana wholesaler, retailer or processor licensee for the purpose of the licensee determining whether to purchase the product. The sample product may not be consumed on a licensed premises. Any sample provided to another licensee must be recorded in CTS.

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### **OAR 845-025-2030**

#### **Licensed Premises of Producer**

- (1) The licensed premises of a producer authorized to cultivate marijuana indoors includes all public and private enclosed areas used in the business operated at the location and any areas outside of a building that the Commission has licensed.
- (2) The licensed premises of a producer authorized to cultivate marijuana outdoors includes the entire lot or parcel, as defined in ORS 92.010, that the licensee owns, leases or has the right to occupy.
- (3) A producer may not engage in any privileges of the license within a primary residence.
- (4) The licensed premises of a producer may not be located at the same physical location or address as a marijuana grow site registered under ORS 475.304 unless the producer is also a person responsible for a marijuana grow site and has been issued a license by the Commission in accordance with section 116, chapter 614, Oregon Laws 2014, and OAR 845-025-1100.

### **OAR 845-025-2040**

#### **Production Size Limitations** (1) Cultivation Batches and Cultivate Batch Sizes.

- (a) A producer must establish cultivation batches and assign each cultivation batch a unique identification number. (b) A cultivation batch may not have more than 100 immature plants.
- (c) A producer may have an unlimited number of cultivation batches at any one time.
- (2) **Canopy Size Limits.**
  - (a) **Indoor Production.**
    - (A) Tier I: Up to 5,000 square feet.
    - (B) Tier II: 5,001 to 10,000 square feet.
  - (b) **Outdoor production.**
    - (A) Tier I: Up to 20,000 square feet.
    - (B) Tier II: 20,001 to 40,000 square feet.
  - (c) **Mixed production.** If a producer intends to have a mixture of indoor and outdoor production the Commission will determine the producer's tiers and canopy sizes by applying the ratio in section (4) of this rule.
  - (d) For purposes of this section, square footage of canopy space is measured starting from the outermost point of the furthest mature flowering plant in a designated growing space and continuing around the outside of all mature flowering plants located within the designated growing space.
  - (e) A producer may designate multiple grow canopy areas at a licensed premises but those spaces must be separated by a physical boundary such as an interior wall or by at least 10 feet of open space.
  - (f) If a local government adopts an ordinance that would permit a producer to have a higher canopy size limit than is permitted under this rule, the local government may petition the Commission for an increase in canopy size limits for that jurisdiction. If the Commission grants such a petition, the Commission may amend this rule in addition to considering changes to the license fee schedule.
  - (g) On an annual basis, the Commission will evaluate market demand for marijuana items, the number of person applying for producer licenses or licensed as producers and whether the availability of marijuana items in this state is commensurate with the market demand. Following this evaluation the Commission may amend this rule as needed.
- (3) **Canopy Size Limit – Designation and Increases.**
  - (a) A producer must clearly identify designated canopy areas and proposed canopy size in the initial license application. A producer may change a designated canopy area within a production type at any time with prior written notice to Commission, but a producer may only change canopy tiers at the time of renewal in accordance with subsection (b) of this section.
  - (b) A producer may submit a request to change canopy tiers at the time the producer submits an application for renewal of the license. The Commission will grant a request to increase the canopy tier for the producer's next licensure term if:
    - (A) The producer's renewal application is otherwise complete;

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- (B) There are no bases to deny or reject the producer's renewal application;
  - (C) The producer has not already reached the applicable maximum canopy size set forth in section (2) of this rule; and
  - (D) During the preceding year of licensure, the producer has not been found to be in violation, and does not have any pending allegations of violations of chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, or these rules.
- (c) The Commission shall give a producer an opportunity to be heard if a request is rejected under this section.
- (4) Mixed cultivation methods.
- (a) A producer may produce marijuana indoors and outdoors at the same time on the same licensed premises. The Commission must be notified of a producer's plan to engage in the indoor and outdoor production of marijuana at the time of initial licensure or at renewal, and not at any other time. A producer who utilizes mixed production may only change designated canopy areas from one production type to another at the time the producer submits a renewal application.
- (b) The Commission must approve the canopy size applicable to each method.
- (c) The Commission will use a 4:1 ratio, for outdoor and indoor respectively, to allocate canopy size limits under this section, not to exceed the sum canopy size limits set forth in section (2) of this rule. For example, if a Tier II producer in the first year of licensure has 5,000 square feet of indoor canopy space, then the producer may have up to 20,000 square feet of outdoor canopy space at the same time.
- (5) Violations. An intentional violation of this rule is a Category I violation and may result in license revocation. All other violations are Category III violations.

HB 3400, Section 14 established requirements to hold a processor license. The law states:

**SECTION 14.** Section 20, chapter 1, Oregon Laws 2015, is amended to read:

**Sec. 20.** (1) The processing of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana processor must have a processor license issued by the commission for the premises at which marijuana items are processed. **To hold a processor license under this section, a marijuana processor:**

- (a) **Must apply for a license in the manner described in section 28, chapter 1, Oregon Laws 2015;**
  - (b) **Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under section 28, chapter 1, Oregon Laws 2015, has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older;**
  - (c) **If the marijuana processor processes marijuana extracts, may not be located in an area zoned exclusively for residential use; and**
  - (d) **Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.**
- (3) **The commission shall adopt rules that:**
- (a) **Require a marijuana processor to annually renew a license issued under this section;**
  - (b) **Establish application, licensure and renewal of licensure fees for marijuana processors;**
  - (c) **Require marijuana processed by a marijuana processor to be tested in accordance with section 92 of this 2015 Act; and**
  - (d) **Require a marijuana processor to meet any public health and safety standards and industry best practices established by the commission by rule related to:**
    - (A) **Cannabinoid edibles;**
    - (B) **Cannabinoid concentrates;**
    - (C) **Cannabinoid extracts; and**
    - (D) **Any other type of cannabinoid product identified by the commission by rule.**

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**(4) Fees adopted under subsection (3)(b) of this section:**

- (a) May not exceed the cost of administering sections 3 to 70, chapter 1, Oregon Laws 2015, with respect to marijuana processors; and**
- (b) Shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.**

HB 3400, Section 72 established producer reporting requirements on quantities sold. The law states:

**(Form and Style Amendments)**

**SECTION 72.** Section 35, chapter 1, Oregon Laws 2015, is amended to read:

**Sec. 35.** On or before the 20th day of each month, every marijuana producer shall file with the Oregon Liquor Control Commission a statement of the quantities of marijuana flowers, marijuana leaves[,] and immature marijuana plants sold by the marijuana producer during the preceding calendar month.

HB 3400, Section 91 established requirements for testing and includes a definition of “Processing” and “Producing”. The law states:

**TESTING**

**OPERATIVE JANUARY 1, 2016**

**SECTION 91.** As used in sections 91 to 99 of this 2015 Act:

- (1) “Cannabinoid” means any of the chemical compounds that are the active constituents of marijuana.**
- (2) “Cannabinoid concentrate or extract” means a substance obtained by separating cannabinoids from marijuana by a mechanical, chemical or other process.**
- (3) “Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate or extract or the dried leaves or flowers of marijuana have been incorporated.**
- (4)(a) “Cannabinoid product” means a cannabinoid edible or any other product intended for human consumption or use, including a product intended to be applied to a person’s skin or hair, that contains cannabinoids or the dried leaves or flowers of marijuana.**
- (b) “Cannabinoid product” does not include:**
  - (A) Usable marijuana by itself;**
  - (B) A cannabinoid concentrate or extract by itself; or**
  - (C) Industrial hemp, as defined in ORS 571.300.**
- (5)(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.**
- (6) “Marijuana item” means marijuana, usable marijuana, a cannabinoid product or a cannabinoid concentrate or extract.**
- (7) “Processing” means the compounding or conversion of marijuana into cannabinoid**

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**products or cannabinoid concentrates or extracts.**

**(8) "Producing" means:**

**(a) Planting, cultivating, growing, trimming or harvesting marijuana; or**

**(b) Drying marijuana leaves and flowers.**

**(9)(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.**

HB 3400, Section 23 established a tracking system for production and processing. The law states:

**(Seed to Sale Tracking System)**

**SECTION 23. (1) The Oregon Liquor Control Commission shall develop and maintain a system for tracking the transfer of marijuana items between licensed premises.**

**(2) The purposes of the system developed and maintained under this section include, but are not limited to:**

**(a) Preventing the diversion of marijuana items to criminal enterprises, gangs, cartels and other states;**

**(b) Preventing persons from substituting or tampering with marijuana items;**

**(c) Ensuring an accurate accounting of the production, processing and sale of marijuana items;**

**(d) Ensuring that taxes are collected for the purpose of being distributed as described in section 44, chapter 1, Oregon Laws 2015;**

**(e) Ensuring that laboratory testing results are accurately reported; and**

**(f) Ensuring compliance with the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, rules adopted under the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, and any other law of this state that charges the commission with a duty, function or power related to marijuana.**

**(3) The system developed and maintained under this section must be capable of tracking, at a minimum:**

**(a) The propagation of immature marijuana plants and the production of marijuana by a marijuana producer;**

**(b) The processing of marijuana by a marijuana processor;**

**(c) The receiving, storing and delivering of marijuana items by a marijuana wholesaler;**

**(d) The sale of marijuana items by a marijuana retailer to a consumer;**

**(e) The purchase and sale of marijuana items between licensees, as permitted by sections 3 to 70, chapter 1, Oregon Laws 2015;**

**(f) The transfer of marijuana items between licensed premises;**

**(g) The collection of taxes imposed upon the retail sale of marijuana items under section 70 of this 2015 Act; and**

**(h) Any other information that the commission determines is reasonably necessary to accomplish the duties, functions and powers of the commission under sections 3 to 70, chapter 1, Oregon Laws 2015.**

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## RETAIL MARIJUANA PROCESSORS

### OAR 845-025-3200

Definitions For purposes of OAR 845-025-3200 to 845-025-3290:

- (1) "Cannabinoid topical" means a cannabinoid product intended to be applied to skin or hair.
- (2) "Food" means a raw, cooked, or processed edible substance, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

### OAR 845-025-3210

#### Endorsements

(1) A marijuana processor may only process and sell cannabinoid products, concentrates or extracts if the processor has received an endorsement from the Commission for that type of processing activity.

Endorsements types are:

- (a) Cannabinoid edible processor;
- (b) Cannabinoid topical processor;
- (c) Cannabinoid concentrate processor; and
- (d) Cannabinoid extract processor.

(2) An applicant must request an endorsement upon submission of an initial application but may also request an endorsement at any time following licensure.

(3) In order to apply for an endorsement an applicant or processor licensee must submit a form prescribed by the Commission that includes a description of the type of products to be processed, a description of equipment to be used, and any solvents, gases, chemicals or other compounds proposed to be used to create extracts or concentrates.

(4) Only one application and license fee is required regardless of how many endorsements an applicant or licensee requests or at what time the request is made.

(5) An individual processor licensee may hold multiple endorsements.

(6) For the purposes of endorsements any cannabinoid product that is intended to be consumed orally is considered a cannabinoid edible.

(7) If a processor is no longer going to process the product for which the processor is endorsed the processor must notify the Commission in writing and provide the date on which the processing of that product will cease.

(8) The Commission may deny a processor's request for an endorsement if the processor cannot or does not meet the requirements in OAR 845-025-3200 to 845-025-3290 for the endorsement that is requested. If the Commission denies approval the processor has a right to a hearing under the procedures of ORS chapter 183.

### OAR 845-025-3220

#### General Processor Requirements

(1) A processor must:

- (a) Use equipment, counters and surfaces for processing that are food-grade and do not react adversely with any solvent being used.
- (b) Have counters and surface areas that are constructed in a manner that reduce the potential for development of microbials, molds and fungi and that can be easily cleaned.
- (c) Maintain the licensed premises in a manner that is free from conditions which may result in contamination and that is suitable to facilitate safe and sanitary operations for product preparation purposes.
- (d) Store all marijuana items not in use in a locked area, including products that require refrigeration in accordance with OAR 845-025-1410.
- (e) Assign every process lot a unique identification number and enter this information into CTS.

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- (2) A processor may provide a sample of a cannabinoid product, concentrate or extract to a marijuana wholesaler or retailer for the purpose of the wholesaler or retailer licensee determining whether to purchase the product but the product may not be consumed on a licensed premises. Any sample provided to another licensee must be recorded in CTS.
- (3) A processor may not process or sell a marijuana item:
  - (a) That by its shape and design is likely to appeal to minors, including but not limited to:
    - (A) Products that are modeled after non-cannabis products primarily consumed by and marketed to children; or
    - (B) Products in the shape of an animal, vehicle, person or character.
  - (b) That is made by applying cannabinoid concentrates or extracts to commercially available candy or snack food items.

#### **OAR 845-025-3250**

##### **Cannabinoid Edible Processor Requirements**

- (1) A cannabinoid edible processor may only process in a food establishment licensed by the Oregon Department of Agriculture (ODA) and must comply with the applicable provisions of OAR 603, Division 21, Division 22, Division 24, Division 25, with the exception of OAR 603- 025-0020(17) and Division 28.
- (2) A cannabinoid edible processor may not:
  - (a) Engage in processing in a location that is operating as a restaurant, seasonal temporary restaurant, intermittent temporary restaurant, limited service restaurant, single-event temporary restaurant, commissary, mobile unit, bed or breakfast, or warehouse licensed under ORS 624;
  - (b) Share a food establishment with a person not licensed and endorsed by the Commission as a cannabinoid edible processor;
  - (c) Process food intended for commercial sale that does not contain cannabinoids, at the licensed premises; or
  - (d) Use a cannabinoid concentrate or extract to process food unless that concentrate or extract was made by a processor licensed by the ODA under ORS 616.706.
- (3) A cannabinoid edible processor may share a food establishment with another cannabinoid edible processor if:
  - (a) The schedule, with specific hours and days that each processor will use the food establishment, is prominently posted at the entrance to the food service establishment and has been approved by the Commission:
    - (A) The schedule must be submitted to the Commission in writing and will be approved if it demonstrates that use of a shared food establishment by multiple cannabinoid edible processors does not create an increased compliance risk.
    - (B) A processor licensee may only change the schedule with prior written approval from the Commission.
  - (b) Each licensee designates a separate area to secure, in accordance with OAR 845-025-1410, any marijuana, cannabinoid products, concentrates or extracts that a licensee stores at the food establishment. If a cannabinoid edible processor does not store marijuana, cannabinoid products, concentrates or extracts at the food establishment those items must be stored on a licensed premises.
- (4) A food establishment used by a cannabinoid edible processor is considered a licensed premises and must meet the security and other licensed premises requirements in these rules.
- (5) A cannabinoid edible processor is strictly liable for any violation found at a shared food establishment during that processor's scheduled time or within that processor's designated area in the food establishment.

#### **OAR 845-025-3260**

##### **Cannabinoid Concentrate and Extract Processor Requirements**

- (1) Cannabinoid Concentrates or Extracts. A processor with a cannabinoid concentrate or extract endorsement:
  - (a) May not use Class I solvents as those are classified in the Federal Drug Administration Guidance, Table I, published in the Federal Register on December 24, 1997 (62 FR 67377).

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(b) Must:

- (A) Only use a hydrocarbon-based solvent that is at least 99 percent purity.
- (B) Only use a non-hydrocarbon-based solvent that is food-grade.
- (C) Work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.
- (D) Use only potable water and ice made from potable water in processing.
- (E) If making a concentrate or extract that will be used in a cannabinoid edible, be endorsed as a cannabinoid edible processor and comply with OAR 845-025-3250.

(2) Cannabinoid Extracts. A processor with an endorsement to make cannabinoid extracts:

(a) May not use pressurized canned butane.

(b) Must:

(A) Process in a:

- (i) Fully enclosed room clearly designated on the current diagram of the licensed premises.
  - (ii) Spark proof room equipped with evacuation fans and lower explosive limit (LEL) detectors.
- (B) Use a commercially manufactured professional grade closed loop extraction system designed to recover the solvents and built to codes of recognized and generally accepted good engineering practices, such as:
- (i) The American Society of Mechanical Engineers (ASME);
  - (ii) American National Standards Institute (ANSI);
  - (iii) Underwriters Laboratories (UL); or
  - (iv) The American Society for Testing and Materials (ASTM).

(C) If using CO<sub>2</sub> in processing, use a professional grade closed loop CO<sub>2</sub> gas extraction system where every vessel is rated to a minimum of nine hundred pounds per square inch.

(D) Have equipment and facilities used in processing approved for use by the local fire code official;

(E) Meet any required fire, safety, and building code requirements specified in:

(i) Applicable Oregon laws;

(ii) National Fire Protection Association (NFPA) standards;

(iii) International Building Code (IBC);

(iv) International Fire Code (IFC); and

(F) Have an emergency eye-wash station in any room in which cannabinoid extract is being processed; and

(G) Have all applicable material safety data sheets readily available to personnel working for the processor.

(3) Cannabinoid Concentrates. A processor with an endorsement to make cannabinoid concentrates:

(a) May not:

(A) Use denatured alcohol.

(B) If using carbon dioxide, apply high heat or pressure.

(b) Must only use or store dry ice in a well-ventilated room to prevent against the accumulation of dangerous levels of CO<sub>2</sub>. (c) May use:

(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; or

(C) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use heat over 180 degrees or pressure.

### **OAR 845-025-3280**

#### **Cannabinoid Topical Processor**

A processor with a cannabinoid topical endorsement may not engage in processing in a location that is operating as a restaurant, seasonal temporary restaurant, intermittent temporary restaurant, limited service restaurant or single-event temporary restaurant licensed under ORS 624.

## WASTE MANAGEMENT

### **OAR 845-025-7750**

#### **Waste Management**

(1) A licensee must:

(a) Store, manage and dispose of solid and liquid wastes generated during marijuana production and processing in accordance with applicable state and local laws and regulations which may include but are not limited to:

(A) Solid waste requirements in ORS 459 and OAR 340 Divisions 93 to 96;

(B) Hazardous waste requirements in ORS 466 and OAR 340, Divisions 100 to 106; and

(C) Wastewater requirements in ORS 468B and OAR 340, Divisions 41 to 42, 44 to 45, 53, 55 and 73.

(b) Store marijuana waste in a secured waste receptacle in the possession of and under the control of the licensee.

(2) A licensee may give or sell marijuana waste to a producer, processor or wholesale licensee or research certificate holder. Any such transaction must be entered into CTS pursuant to OAR 845-025-7500.

(3) In addition to information required to be entered into CTS pursuant to OAR 845-025-7500, a licensee must maintain accurate and comprehensive records regarding waste material that accounts for, reconciles, and evidences all waste activity related to the disposal of marijuana.

## **Recreational Marijuana, Paraphernalia & Taxes Subcommittee Timeline**

1/7/16

### *\*Subcommittee Meeting Dates*

#### **Recreational Producer and Processor - Place, Time and Manner regulations**

December 9, 2015 – Subcommittee motion to initiate Development Code Amendment Recreational Marijuana Producer and Processor – Place, Time and Manner regulations

January 4, 2016 – City Council initiates Development Code Amendment Recreational Marijuana Producer and Processor – Place, Time and Manner regulations

*\*January 7, 2016 – Subcommittee reviews Recreational Marijuana Producer and Processor – Place, Time and Manner regulations*

January 7, 2016 - Subcommittee motion to initiate Development Code Amendment Recreational Marijuana Wholesalers, Laboratories, Research Certificates & Retail – Place, Time and Manner regulations

January 20, 2016 - Department of Land and Conservation and Development 35 day notice Recreational Marijuana Producer and Processor – Place, Time and Manner regulations

February 10, 2016 – Planning Commission hearing notice in Graphic

February 25, 2016 – Planning Commission Public Hearing Recreational Marijuana Producer and Processor – Place, Time and Manner regulations

March 9, 2016 – City Council hearing notice in Graphic

March 21, 2016 – City Council Public Hearing Recreational Marijuana Producer and Processor – Place, Time and Manner regulations; Ordinance Adoption with emergency clause

#### **Recreational Marijuana Wholesalers, Laboratories, Research Certificates & Retail Place, Time and Manner regulations and Paraphernalia regulations**

February 1, 2016 - City Council initiates Development Code Amendment Recreational Marijuana Wholesalers, Laboratories, Research Certificates & Retail – Place, Time and Manner regulations

*\*February 4, 2016 – Subcommittee reviews Recreational Marijuana Wholesalers, Laboratories, Research Certificates & Retail – Place, Time and Manner regulations and Paraphernalia regulations*

March 9, 2016 - Department of Land and Conservation and Development 35 day notice  
Recreational Marijuana Wholesalers, Laboratories, Research Certificates & Retail –  
Place, Time and Manner regulations

March 30, 2016 - Planning Commission hearing notice in Graphic

April 14, 2016 – Planning Commission Public Hearing Recreational Marijuana  
Wholesalers, Laboratories, Research Certificates & Retail – Place, Time and Manner  
regulations

May 4, 2016 - City Council hearing notice in Graphic

May 16, 2016 – City Council Public Hearing Recreational Marijuana Wholesalers,  
Laboratories, Research Certificates & Retail – Place, Time Manner regulations;  
Ordinance Adoption with emergency clause

### **Taxes**

*\*March 3, 2016 – Subcommittee reviews Taxes*