



**MARIJUANA SUBCOMMITTEE AGENDA  
FEBRUARY 4, 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 – January 12, 2016**
- IV. POTENTIAL DEVELOPMENT CODE REGULATIONS FOR RECREATIONAL MARIJUANA WHOLESALEERS, LABORATORIES, RESEARCH CERTIFICATES AND RETAILERS**
- 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**  
**January 12, 2016 1:00 pm**  
**Newberg City Hall, 414 East First St**  
**Permit Center Conference Room**

Chair 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:**

**MOTION: McKinney/Bacon** moved to approve the December 9, 2015, minutes. Motion carried (3 Yes/ 0 No)

**POTENTIAL DEVELOPMENT CODE REGULATIONS FOR RECREATONAL MARIJUANA PRODUCERS AND PROCESSORS:**

Community Development Director Doug Rux said the regulations for medical marijuana would be brought to the Planning Commission on January 14 and would go to the City Council in February. Staff reviewed HB 3400 and the temporary rules adopted by the OLCC and pulled out definitions that he discussed including medical marijuana processor, marijuana producer, license premises, processes, and produces. He then described the place regulations which allowed restrictions or limitations through land use. Marijuana activities could not co-locate on federal land or be in the same location as a medical marijuana grow, processing, or dispensary site or a liquor license site. Extracts also could not occur in an exclusively residential area, however schools, churches, businesses, etc. were allowed in residential zones in Newberg. A licensed premises of a processor must be enclosed on all sides by permanent walls or doors. Prior to entering a licensed premises, customers must have a visitors badge and be accompanied by a licensed representative. He explained the restrictions for recreational marijuana producers for both indoor and outdoor operations. When the City got the forms for the land use compatibility statement, they had 21 days to review it. Those were allowed starting January 4. For the compatibility statement, the City could say it was allowed, prohibited, or conditional use. If the City said it was prohibited, OLCC would not process the license. If it was allowed or conditional use, OLCC would continue to process the license. He then discussed the opt-in provision for those with medical marijuana grow sites to also be recreational marijuana producers. If people did opt-in, they would have to follow all of the OLCC regulations for the site. He reviewed the definition of horticulture, light manufacturing, and use categories in the Newberg Code.

Councilor Bacon asked how community gardens were viewed.

City Attorney Truman Stone thought the key to the definition was commercial purposes.



CDD Doug Rux responded producers had to have an eight foot high sight obscuring fence, but to get to the eight feet they had to be five feet in from the exterior property lines and it required a building permit if a fence was over six feet.

CDD Doug Rux continued to discuss time and manner regulations. Time was not an issue with growers and processors. Local jurisdictions could adopt additional limitations on the size of the grow canopies, but they would have to get permission from OLCC to do so. There were Tier 1 and Tier 2 regulations for producers, and different fees associated with them. For security, there had to be a security plan and producers had to fully enclose indoor operations on all sides and a solid wall or fence that was at least eight feet high had to be installed around exterior operations. If producers composted, they had to prohibit public access to the compost area and obscure it from public view. Regarding health and safety, all marijuana licenses were subject to inspection and had to comply with any local ordinance or utility requirement.

Councilor McKinney had a question regarding insufficient power for an operation.

CDD Doug Rux responded if there was insufficient power, it would be a discussion with PGE on how to bring service to that particular location.

Mayor Andrews had a question on health and safety inspections, did they need to take any action to designate staff to do the inspections?

City Attorney Truman Stone said it was a mix of individuals depending on the Code provisions, some parts designated the Police Chief, some designated the Fire Marshal, Building Official, etc. He did not think a new position needed to be created for marijuana growers or producers, and they could continue to use the current method of the City Manager or designee delegating the issue to the appropriate department to address it.

CDD Doug Rux continued to discuss producers, who could have an indoor or outdoor production or combination of the two. For producers who had an outdoor production, the rules included the entire lot or parcel and it could not be a in a primary residence. They could not be located on the same physical location as a grow site. He then explained the differences between Tier I, which for indoor production was a canopy up to 5,000 square feet, and Tier 2, which was a canopy 5,001 square feet to 10,000 square feet. For an outdoor production Tier 1 was up to 20,000 square feet and Tier 2 was 20,001 to 40,000. There could also be mixed production and there had to be a separation between the grow canopies. There was a tracking system from seed to sale and licensee had to enter all the information into the tracking system for OLCC. Processors could receive endorsements for edibles, topicals, concentrates, and extracts. There were requirements for the equipment used by the processors and processing of edibles. Edibles could not be processed in the same location as a restaurant and he thought that included caterers but it was not clear. Operations had to dispose of all solid and liquid waste from the processing and hazardous waste had to comply with ORS rules. If any one of the categories was banned, Newberg would not be eligible for a share in the State tax. The questions for consideration were: where would they want to allow producers, should they be indoor or outdoor or both, and where would they allow processors and their chemical and mechanical processes? The processors seemed like industrial type businesses. Did they want a processor in the commercial categories or in residential? Did they want producers to be zoned residential and should they be indoor or outdoor or both? Should they be considered as agricultural operations? Producers could be allowed indoors in industrial only or also in residential if they were in an enclosed building and had light. If the building had no light or electricity it was considered outdoor.

There was discussion regarding processors, which had to be indoors. Time was not an issue since it was an indoor operation. There might be outdoor storage that could be addressed.



CDD Doug Rux clarified for medical marijuana, the recommendation was to allow medical processors in industrial zones, which included M1, M2, M3, M4, and SD/E.

**MOTION: Bacon/Rourke** moved to allow processors in the industrial zoning categories as a permitted use which included M1, M2, M3, M4, A/I, and SD/E.

CA Truman Stone asked about A/I since it had to be aviation related. Councilor Rourke suggested the Planning Commission could discuss that issue.

CDD Doug Rux referred to the zone map where A/I was located.

**AMENDMENT TO THE MOTION: McKinney/Bacon** moved to amend the motion not to include the A/I zone. Motion carried (3 Yes/ 0 No).

**VOTE ON THE ORIGINAL MOTION:** Motion carried (3 Yes/ 0 No).

There was discussion regarding the regulations for producers and whether or not to consider indoor and outdoor separately.

CDD Doug Rux said for medical grow sites, the recommendation was to allow up to 12 mature plants or 2 patients as a permitted use in R1, R2, and R3 and a conditional use in all other zones.

Councilor Bacon preferred producers be allowed as indoor residential only.

There was further discussion regarding green house lights being a nuisance in a neighborhood at night, permitted vs. conditional use, and examples of areas in R1 and R2 where this would be applicable.

Chair Rourke suggested making it conditional use for residential due to lighting concerns.

Councilor McKinney did not think it should be allowed in R3 or Airport Residential.

There was discussion regarding the Residential Professional zone and sub district zones.

**MOTION: Rourke/Bacon** moved to allow producers as conditional use in R1, R2, SD/LDR, R1/PD, R1/.1, R1/.04, R1/6.6, R1/SP, R2/PD, R2/RD, and R2/SP based on compatibility. Motion carried (3 Yes/ 0 No).

There was discussion regarding commercial zones. CD Doug Rux clarified where the commercial was located.

**MOTION: McKinney/Bacon** moved to restrict producers in commercial districts or sub districts. Motion carried (3 Yes/ 0 No).

There was discussion regarding processors in community facilities. CDD Doug Rux explained the community facilities in the City.

**MOTION: Rourke/McKinney** moved to restrict processors in community facilities. Motion carried (3 Yes/ 0 No).



Chair Rourke realized he did not specify indoor or outdoor uses in regard to residential areas.

**MOTION: Rourke/Bacon** moved to reconsider the motion regarding producers in residential zones and amend the motion to specify conditional use was for indoor operations only and outdoor operations were restricted. Motion carried (3 Yes/ 0 No).

**MOTION: Bacon/Rourke** move to restrict uses in institutional zones. Motion carried (3 Yes/ 0 No).

There was discussion regarding producers in industrial zones and indoor vs. outdoor. There was further discussion regarding indoor uses being permitted in M1, M2, M3, M4, Springbrook District, and sub district M1/SP, SD/E, and interim industrial use overlay. Outdoor uses would be conditional use in industrial zones.

Councilor McKinney was not in favor of allowing outdoor operations as he would like to develop the industrial land the City had to its maximum use.

There was discussion regarding where the industrial land was located and what was currently on the properties.

**MOTION: Bacon/Rourke** moved that for producers in industrial zones, indoor uses were permitted, and outdoor uses were a conditional use except in Airport Industrial and Airport Industrial Overlay where they were restricted. Motion passed (2 Yes/ 1 No) with Councilor McKinney opposed.

**MOTION: Rourke/Bacon** moved to restrict producers in the interchange overlays. Motion carried (3 Yes/ 0 No).

CDD Doug Rux explained the updated time line and schedule. The draft recommendations for recreational producers and processors would be sent to DLCDC on January 20. The Planning Commission would be holding a public hearing on the recommendations for recreational marijuana in February and the City Council would hold a public hearing in March.

Chair Rourke thought time and place had been addressed, and asked if there was something more on manner.

CDD Doug Rux stated the Committee could restrict the grow canopy size over the Tier 1 and Tier 2 restrictions.

**MOTION: Rourke/Bacon** moved to recommend no additional time, place, or manner restrictions for producers or processors other than what had already been done. Motion carried (3 Yes/ 0 No).

CDD Doug Rux suggested adding the HB 3400 definitions for marijuana processors and marijuana producers to the Newberg Code.

**MOTION: McKinney/Rourke** moved to add the definitions to the Code as proposed by staff. Motion carried (3 Yes/ 0 No).

**RECOMMENDATION TO INITIATE DEVELOPMENT CODE AMENDMENT FOR RECREATIONAL MARIJUANA WHOLESALERS, LABORATORIES, RESEARCH CERTIFICATES AND RETAIL:**



**MOTION: Rourke/Bacon** moved to direct staff to initiate Development Code amendments for recreational marijuana wholesalers, laboratories, research certificates, and retail. Motion carried (3 Yes/ 0 No).

**FUTURE MEETING SCHEDULE**

There was discussion regarding the timeline for medical and recreational marijuana items. The subcommittee would meet again on February 4 from 1-3 p.m. and on March 3 for a final meeting.

**ADJOURNMENT:** Councilor Rourke adjourned the meeting at 2:51 p.m.

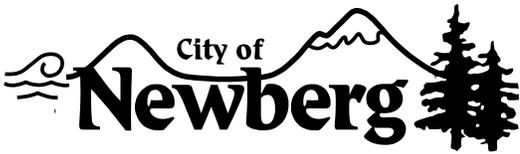
**Approved by the Marijuana Subcommittee this 2nd day of February, 2016.**

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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: January 28, 2016

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At the January 12, 2016 Marijuana Subcommittee (Subcommittee) meeting the Subcommittee passed a motion 3-0 directing staff to create a Request for Council Action (RCA) to initiate a Development Code amendment for recreational marijuana wholesale, laboratory, research certificate and retail regulations to bring forward for Council consideration on February 1. That RCA was prepared and will be presented to the City Council on February 1.

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 wholesalers, laboratories, research certificates and retailers for your February 4<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.

There are a number of possible considerations when evaluating where recreational marijuana retail establishments could be allowed. State law and administrative rules establish a 1,000 foot buffer from primary and secondary public schools and private or parochial schools. With medical marijuana the City Council took the additional step to require a buffer of 1,000 feet from parks. It is also important to note that HB 3400 has a limitation that recreational marijuana retail establishment cannot have a separation requirement of more than 1,000 feet from another recreational marijuana retail establishment. There are no State law or administrative rule provisions for separation of a medical marijuana dispensary from a recreational marijuana retail establishment. Attachments 1, 2 and 3 are maps of potential 1,000 buffers from schools and parks.

## **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:

**"Working Together For A Better Community-Serious About Service"**

### 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.

(20) “Laboratory” means a laboratory certified by the Authority under ORS 438.605 to 438.620 and authorized to test marijuana items for purposes specified in these rules. [OAR 845-025-1015 Temporary Rule]

(31) "Marijuana retailer" means a person who sells marijuana items to a consumer in this state. [OAR 845-025-1015 Temporary Rule]

(32) "Marijuana wholesaler" means a person who purchases marijuana items in this state for resale to a person other than a consumer. [OAR 845-025-1015 Temporary Rule]

(47) “Retailer” means a marijuana retailer licensed by the Commission. [OAR 845-025-1015 Temporary Rule]

(54) “Wholesaler” means a marijuana wholesaler licensed by the Commission. [OAR 845-025-1015 Temporary Rule]

## PLACE

HB 3400, Section 33 allows local governments to regulate the location of recreational marijuana wholesale and retail operations. 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:**

- (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;**
- (c) Reasonable conditions on the manner in which a marijuana wholesaler licensed under section 21, chapter 1, Oregon Laws 2015, may sell marijuana at wholesale;**
- (d) Reasonable limitations on the hours during which a marijuana retailer licensed under**

section 22, chapter 1, Oregon Laws 2015, may operate;

(e) Reasonable conditions on the manner in which a marijuana retailer licensed under section 22, chapter 1, Oregon Laws 2015, may sell marijuana items;

(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

(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.

(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 15 allows local governments to regulate the location of recreational marijuana wholesale operations. Specifically the law reads:

**(License Holders)**

**SECTION 15.** Section 21, chapter 1, Oregon Laws 2015, is amended to read:

**Sec. 21.** (1) The wholesale sale of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana wholesaler must have a wholesale license issued by the commission for the premises at which marijuana items are received, [*kept,*] stored[,] or delivered. **To hold a wholesale license under this section, a marijuana wholesaler:**

(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) **May not be located in an area that is 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 wholesaler to annually renew a license issued under this section;**

(b) **Establish application, licensure and renewal of licensure fees for marijuana wholesalers;**

(c) **Require marijuana items received, stored or delivered by a marijuana wholesaler to be tested in accordance with section 92 of this 2015 Act; and**

(d) **Require a marijuana wholesaler to meet any public health and safety standards and**

industry best practices established 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 wholesalers; and

(b) Shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.

HB 3400, Sections 16 and 17 allows local governments to regulate the location of recreational marijuana retail operations. Specifically the law reads:

**SECTION 16.** Section 22, chapter 1, Oregon Laws 2015, is amended to read:

**Sec. 22.** (1) The retail sale of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

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

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

(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); and**

(e) **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 retailer to annually renew a license issued under this section;**

(b) **Establish application, licensure and renewal of licensure fees for marijuana retailers;**

(c) **Require marijuana items sold by a marijuana retailer to be tested in accordance with section 92 of this 2015 Act; and**

(d) **Require a marijuana retailer to meet any public health and safety standards and industry best practices established 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 retailers; and**

(b) **Shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.**

**SECTION 17. If a school described in section 22 (2)(d), chapter 1, Oregon Laws 2015, that has not previously been attended by children is established within 1,000 feet of a premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015, the**

**marijuana retailer located at that premises may remain at that location unless the Oregon Liquor Control Commission revokes the license of the marijuana retailer under section 30, chapter 1, Oregon Laws 2015.**

HB 3400, Section 34 establishes a requirement for a land use compatibility statement for recreational marijuana wholesale and retail uses. Specifically the law reads:

**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.**

Oregon Administrative Rule, Division 25 establishes a requirement for a land use compatibility statement for recreational marijuana wholesale and retail uses. Specifically the rule reads:

**845-025-1090**

**Application Review**

(1) Once the Commission has determined that an application is complete it must review the application to determine compliance with chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, and these rules.

**(2) The Commission:**

(a) Must, prior to acting on an application, request a land use compatibility statement from the city or county that authorizes land use in the city or county in which the applicant's proposed premises is located or request verification that a land use compatibility statement submitted by an applicant is valid and accurate

(b) May, in its discretion, prior to acting on an application:

(A) Contact any applicant or individual with a financial interest and request additional documentation or information; and

(B) Verify any information submitted by the applicant.

(3) The Commission must inspect the proposed premises prior to issuing a license.

(4) If during an inspection the Commission determines the applicant is not in compliance with these rules, the applicant will be provided with a notice of the failed inspection and the requirements that have not been met.

(a) An applicant that fails an inspection will have 15 calendar days from the date the notice was sent to submit a written response that demonstrates the deficiencies have been corrected.

(b) An applicant may request in writing one extension of the 15-day time limit in subsection (a) of this section, not to exceed 30 days.

(5) If an applicant does not submit a timely plan of correction or if the plan of correction does not correct the deficiencies in a manner that would bring the applicant into compliance, the Commission may deny the application.

(6) If the plan of correction appears, on its face, to correct the deficiencies, the Commission will schedule another inspection.

(7) If an applicant fails a second inspection, the Commission may deny the application unless the applicant shows good cause for the Commission to perform additional inspections.

Oregon Administrative Rule, Division 25 establishes requirements and limitations for denial of a license by the Oregon Liquor Control Commission for wholesale and retail recreational marijuana uses. Specifically the rule reads:

**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.
- (f) The proposed licensed premises of a retail applicant is located:
  - (A) Within 1,000 feet of:
    - (i) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or (ii) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030.
    - (B) In an area that is zoned exclusively for residential use.
- (g) The proposed licensed premises of a wholesaler applicant is in an area zoned exclusively for residential use.
- (h) A city or county has prohibited the license type for which the applicant is applying, in accordance with sections 133 or 134, chapter 614, Oregon Laws 2015.
- (2) The Commission may deny an initial or renewal application, unless the applicant shows good cause to overcome the denial criteria, if it has reasonable cause to believe that:
  - (a) The applicant:
    - (A) Is in the habit of using alcoholic beverages, habit-forming drugs, marijuana, or controlled substances to excess.
    - (B) Has made false statements to the Commission.
    - (C) Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.
    - (D) Is not of good repute and moral character.
    - (E) Does not have a good record of compliance with sections 3 to 70, chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, or these rules, prior to or after licensure including but not limited to:
      - (i) The giving away of marijuana items as a prize, premium or consideration for a lottery, contest, game of chance or skill, or competition of any kind, in violation of section 49, chapter 614, Oregon Laws 2015; (ii) Providing marijuana items to an individual without checking that the individual is 21 or older;
      - (iii) Unlicensed transfer of marijuana items for financial consideration; or (iv) Violations of local ordinances adopted under section 33, chapter 614, Oregon Laws 2015, pending or adjudicated by the local government that adopted the ordinance.
    - (F) Is not possessed of or has not demonstrated financial responsibility sufficient to adequately meet the requirements of the business proposed to be licensed.
    - (G) Is unable to understand the laws of this state relating to marijuana or these rules, including but not limited to ORS 475.300 to 475.346 and sections 91 to 99, chapter 614, Oregon Laws 2015. Inability to understand laws and rules of this state related to marijuana may be demonstrated by violations documented by the Oregon Health Authority.
  - (b) Any individual listed on the application has been convicted of violating a general or local law

of this state or another state, or of violating a federal law, if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license, except as specified in Section 29(3), chapter 1, Oregon Laws 2015.

(c) Any applicant is not the legitimate owner of the business proposed to be licensed, or other persons have an ownership interest in the business have not been disclosed to the Commission.

(3) The Commission may refuse to issue a license to any license applicant or refuse to renew the license of any licensee when conditions exist in relation to any person having a financial interest in the business or in the place of business which would constitute grounds for refusing to issue a license or for revocation or suspension of a license if such person were the license applicant or licensee. However, in cases where the financial interest is held by a corporation, only the officers and directors of the corporation, any individual or combination of individuals who own a controlling financial interest in the business shall be considered persons having a financial interest within the meaning of this subsection.

(4) The Commission will not deny an application under subsections (1) (c) (B) of this rule if the applicant surrenders the registration issued by the Authority prior to being issued an OLCC license.

(5) If the Commission denies an application because an applicant submitted false or misleading information to the Commission, the Commission may prohibit the applicant from re-applying for five years.

(6) A notice of denial must be issued in accordance with ORS 183.

Oregon Administrative Rule, Division 25 establishes restrictions and requirements for wholesale and retail recreational marijuana uses. Specifically the rule reads:

#### **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.

(3) The licensed premises of a retailer may not be located:

(a) 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.

(b) In an area that is zoned exclusively for residential use.

- (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.
- (6) A licensee may not permit:
  - (a) Any minor on a licensed premises except as described in section (7) and (8) of this rule; or
  - (b) On-site consumption of a marijuana item, alcohol, or other intoxicant by any individual, except that an employee who has a current registry identification card issued under ORS 475.309 may consume marijuana during his or her work shift on the licensed premises as necessary for his or her medical condition, if the employee is alone, in a closed room and not visible to others outside the room. An employee who consumes a marijuana item as permitted under this subsection may not be intoxicated while on duty.
- (7) Notwithstanding section (6)(a) of this rule, a minor, other than a licensee's employee, who has a legitimate business purpose for being on the licensed premises, may be on the premises for a limited period of time in order to accomplish the legitimate business purpose. For example, a minor plumber may be on the premises in order to make a repair.
- (8) Notwithstanding section (6)(a) of this rule, a minor who resides on the tax lot or parcel where a marijuana producer is licensed may be present on those portions of a producer's licensed that do not contain usable marijuana or cut and drying marijuana plants.
- (9) A licensee must clearly identify all limited access areas in accordance with OAR 845-025-1245.
- (10) A licensee must keep a daily log of all employees, contractors and license representatives who perform work on the licensed premises. All employees, contractors and licensee representatives must wear clothing or a badge issued by the licensee that easily identifies the individual as an employee, contractor or licensee representative.
- (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.
- (13) A licensee must maintain a log of all visitor activity. The log must contain the first and last name and date of birth of every visitor and the date they visited.
- (14) A marijuana producer or research certificate holder may offer tours of the licensed premises, including limited access areas, to the general public if the licensee submits a control plan in writing and the plan is approved by the Commission.

- (a) The plan must describe how conduct of the individuals on the tour will be monitored, how access to usable marijuana will be limited, and what steps the licensee will take to ensure that no minors are permitted on the licensed premises.
- (b) The Commission may withdraw approval of the control plan if the Commission finds there is poor compliance with the plan. Poor compliance may be indicated by, for example, individuals on the tour not being adequately supervised, an individual on the tour obtaining a marijuana item while on the tour, a minor being part of a tour, or the tours creating a public nuisance.
- (15) Nothing in this rule is intended to prevent or prohibit Commission employees or contractors, or other state or local government officials that have jurisdiction over some aspect of the licensed premises or licensee from being on the licensed premises.
- (16) A licensee may not sublet any portion of a licensed premises.
- (17) A licensed premises may receive marijuana items only from a marijuana producer, marijuana processor, or marijuana wholesaler for whom a premises has been licensed by the Commission.
- (18) A licensed wholesaler or retailer who sells or handles food, as that term is defined in ORS 616.695, or cannabinoid edibles must also be licensed by the Oregon Department of Agriculture under ORS 616.706.

Oregon Administrative Rule, Division 25 establishes restrictions on the location of recreational marijuana retail uses. Specifically the rule reads:

#### **845-025-2840**

##### **Retailer Premises**

- (1) The licensed premises of a retailer:
  - (a) May not be located in an area that is zoned exclusively for residential use.
  - (b) 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.
  - (c) Must be enclosed on all sides by permanent walls and doors.
- (2) A retailer must post in a prominent place signs at every:
  - (a) Point of sale that read:
    - (A) "No Minors Permitted Anywhere on the Premises"; and
    - (B) "No On-Site Consumption".
  - (b) Exit from the licensed premises that reads: "Marijuana or Marijuana Infused Products May Not Be Consumed In Public".
- (3) A retailer must designate a consumer sales area on the licensed premises where consumers are permitted. The area shall include the portion of the premises where marijuana items are displayed for sale to the consumer and sold and may include other contiguous areas such as a lobby or a restroom. The consumer sales area is the sole area of the licensed premises where consumers are permitted.
- (4) All inventory must be stored on the licensed premises.
- (5) For purposes of determining the distance between a retailer and a school referenced in subsection (1)(b) of this rule, "within 1,000 feet" means a straight line measurement 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 a school to the closest point of the licensed premises of a

retailer. If any portion of the licensed premises is within 1,000 feet of a school as described subsection (1)(b) of this rule an applicant will not be licensed.

HB 3400 and Oregon Administrative Rule, Division 25 have no specific provisions for the location of testing laboratories and research certificate facilities. Research certificates can be issued to qualifying private and public researchers. The Subcommittee may want to consider limiting these two uses. One option is to allow testing laboratories as a permitted use in industrial districts. For research certificates an option is to allow the activity as a permitted use in industrial districts. The Subcommittee may also want to consider if research certificate activities should be allowed in the Institutional District. Specifically the rules for testing laboratories and research certificates reads:

## **MARIJUANA TESTING LABORATORIES**

### **845-025-5000**

#### **Laboratory License Privileges**

A licensed marijuana testing laboratory may:

- (1) Obtain samples of marijuana items from licensees for purposes of performing testing as provided in these rules and OAR 333-007-0300 to 333-007-0490;
- (2) Transport and dispose of samples as provided in these rules; and
- (3) Perform testing on marijuana items in a manner consistent with the laboratory's accreditation by the Oregon Health Authority, these rules and OAR 333-007-0300 to 333-007-0490.

### **845-025-5030**

#### **Laboratory Licensing Requirements**

##### **(1) General Requirements**

- (a) A laboratory that intends to test marijuana items for producer, processor, wholesale or retail licensees must be licensed by the Commission.
- (b) An applicant for a license under this rule must comply with all applicable application requirements in OAR 845-025-1030 and pay the required application and license fees, except that a laboratory licensee is not subject to any residency requirements.
- (c) A laboratory application is subject to the same application review procedures as other applicants.
- (d) In addition to the denial criteria in OAR 845-025-1115, the Commission may refuse to issue a laboratory license for any violation of sections 91 to 99, chapter 614, Oregon Laws 2015, sections 3 to 70, chapter 1, Oregon Laws 2015, or these rules.
- (e) Laboratory application and license fees are established in OAR 845-025-1060.

##### **(2) Accreditation by the Oregon Health Authority**

- (a) In addition to the requirements listed in section (1) of this rule, an applicant for a laboratory license must be accredited by the Authority with a scope of accreditation that includes the sampling and testing analysis required in OAR 333-007-0300 to 333-007-0490 prior to exercising the licensed privileges in OAR 845-025-5000.
- (b) An applicant for a license under this rule may apply for licensure prior to receiving accreditation, but the Commission will not issue a license until proof of accreditation is received.
- (c) The Commission may make efforts to verify or check on an applicant's accreditation status

during the licensing process, but an applicant bears the burden of taking all steps needed to secure accreditation and present proof of accreditation to the Commission.

(d) In addition to the denial criteria in OAR 845-025-1115, the Commission may consider an application incomplete if the applicant does not obtain accreditation from the Authority within six months of applying for a license. The Commission shall give an applicant an opportunity to be heard if an application is declared incomplete under this section, but an applicant is not entitled to a contested case proceeding under ORS chapter 183. An applicant whose application is declared incomplete may reapply at any time.

(e) A licensed laboratory must maintain accreditation by the Authority at all times while licensed by the Commission. If a laboratory's accreditation lapses, is canceled or is suspended at any time for any reason while licensed by the Commission, the laboratory may not engage in any activities permitted under the license until accreditation is reinstated.

(f) Exercising license privileges while accreditation is suspended or canceled is a Category I violation and could result in license cancellation.

(3) Renewal.

(a) A laboratory must renew its license annually and pay the required renewal fees in accordance with OAR 845-025-1190.

(b) A laboratory renewal application may be denied for any violation of sections 91 to 99, chapter 614, Oregon Laws 2015, sections 3 to 70, chapter 1, Oregon Laws 2015, or these rules.

#### **845-025-5045**

##### **Laboratory Tracking and Reporting**

(1) A laboratory licensee is required to utilize CTS and follow all requirements established by OAR 845-025-7500 to OAR 845-025-7590.

(2) A laboratory licensee is responsible for tracking and entering the following information into CTS:

(a) Receipt of samples for testing, including:

(A) Size of the sample;

(B) Name of licensee from whom the sample was obtained;

(C) Date the sample was collected; and (D) UID tag information associated with the harvest or process lot from which the sample was obtained.

(b) Tests performed on samples, including:

(A) Date testing was performed;

(B) What samples were tested for;

(C) Name of laboratory responsible for testing; and

(D) Results of all testing performed. (c) Disposition of any testing sample material.

#### **845-025-5060**

##### **Laboratory Transportation and Waste Disposal**

(1) A laboratory licensee must follow all rules regarding transportation of marijuana items established in OAR 845-025-7700.

(2) A laboratory licensee must follow all rules regarding disposal of samples from marijuana items established in OAR 845-025-7750.

#### **845-025-5075**

##### **Laboratory Licensee Prohibited Conduct**

- (1) In addition to the prohibitions set forth in OAR 845-025-8520, a laboratory licensee may not:
  - (a) Perform any required marijuana testing using any testing methods or equipment not permitted under the laboratory's accreditation through the Authority;
  - (b) Perform any required marijuana testing for any licensed marijuana producer, processor, wholesaler or retailer in which the laboratory licensee has a financial interest; or
  - (c) Engage in any activity that violates any provision of chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, OAR 333-007-0300 through OAR 333-007-0490 or OAR 333, Division 64 as applicable or these rules.
- (2) The Commission may suspend or cancel a laboratory license for any violation of sections 91 to 99, chapter 614, Oregon Laws 2015, or these rules. The licensee has a right to a hearing under the procedures of ORS chapter 183; OAR chapter 137, division 003; and OAR chapter 845, division 003.
- (2) A violation of this rule is a Category I violation and could result in license revocation.

## **RESEARCH CERTIFICATE**

### **845-025-5300.**

#### **Application for Marijuana Research Certificate**

- (1) The Commission shall issue Marijuana Research Certificates to qualifying public and private researchers who present research proposals that demonstrate:
  - (a) The proposed research would benefit the state's cannabis industry, medical research or public health and safety; and
  - (b) The proposed operation and methodology complies with all applicable laws and administrative rules governing marijuana licensees and licensee representatives.
- (2) The process for applying for, receiving and renewing a certificate shall be the same as the process for applying for, receiving and renewing a marijuana license under OAR 845-025-1030 to 845-025-1115 except that an applicant for a Marijuana Research Certificate is not subject to the residency requirements in OAR 845-025-1045(2)(b).
- (3) In addition to the application requirements in OAR-025-1030 the applicant must also provide:
  - (a) A clear description of the research proposal;
  - (b) A description of the researchers' expertise in the scientific substance and methods of the proposed research;
  - (c) An explanation of the scientific merit of the research plan, including a clear statement of the overall benefit of the applicant's proposed research to Oregon's cannabis industry, medical research, or to public health and safety;
  - (d) Descriptions of key personnel, including clinicians, scientists, or epidemiologists and support personnel who would be involved in the research, demonstrating they are adequately trained to conduct this research;
  - (e) A clear statement of the applicant's access to funding and the estimated cost of the proposed research;
  - (f) A disclosure of any specific conflicts of interest that the researcher or other key personnel have regarding the research proposal;
  - (g) A description of the research methods demonstrating an unbiased approach to the proposed research; and
  - (h) If the applicant intends to research the use of pesticides, an experimental use permit issued by Oregon Department of Agriculture pursuant to OAR 603-057-0160.

- (4) Research certificates will be granted for up to a three-year term.
- (5) The Commission may request that the research certificate holder submit information and fingerprints required for a criminal background check at any time within the research certificate term.
- (6) A certificate holder may, in writing, request that the Commission waive one or more of these rules. The request must include the following information:
  - (a) The specific rule and subsection of a rule that is requested to be waived;
  - (b) The reason for the waiver;
  - (c) A description of an alternative safeguard the licensee can put in place in lieu of the requirement that is the subject of the waiver, or why such a safeguard is not necessary; and
  - (d) An explanation of how and why the alternative safeguard or waiver of the rule protects public health and safety, prevents diversion of marijuana, and provides for accountability.
- (7) The Commission may, in its discretion, and on a case-by-case basis, grant the waiver in whole or in part if it finds:
  - (a) The reason the certificate holder is requesting the waiver is because another state or local law prohibits compliance; or
  - (b) The certificate holder cannot comply with the particular rule, for reasons beyond the certificate holder's control or compliance with the rule is cost prohibitive; or
  - (c) Because of the nature of the research, the Commission finds that compliance with a particular rule is not necessary and that even with the waiver public health and safety can be protected, there is no increased opportunity for diversion of marijuana, and the certificate holder remains accountable.
- (8) The Commission must notify the certificate holder in writing whether the request has been approved. If the request is approved the notice must specifically describe any alternate safeguards that are required and, if the waiver is time limited, must state the time period the waiver is in effect.
- (9) The Commission may withdraw approval of the waiver at any time upon a finding that the previously approved waiver is not protecting public health and safety or the research certificate holder has other issues with compliance. If the Commission withdraws its approval of the waiver the certificate holder will be given a reasonable period of time to come into compliance with the requirement that was waived.

#### **845-025-5350.**

##### **Marijuana Research Certificate Privileges and Prohibitions**

- (1) A certificate holder may receive marijuana items from a licensee or a registrant under ORS 475.300 to 475.346.
- (2) A certificate holder may not sell or otherwise transfer marijuana items to any other person except when disposing of waste pursuant to OAR 845-025-7750, or transferring to another certificate holder.
- (3) A certificate holder may not conduct any human subject research related to marijuana unless the certificate holder has received approval from an institutional review board that has adopted the Common Rule, 45 CFR Part 46.
- (4) All administrative rules adopted by Commission for the purpose of administering and enforcing chapter 1, Oregon Laws 2015; chapter 614, Oregon Laws 2015; and any rules adopted thereunder with respect to licensees and licensee representatives apply to certificate holders except for those which are inconsistent with this rule.

The Newberg Municipal Code states the following regarding retail, wholesale and warehouse:

**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:

**“Retail sales – general category”** means a category of uses under Chapter 15.303 NMC that sell or rent goods to the general public. Items are sold indoors, or, if outdoors, are limited to small items that do not require machinery to load to customers. Most items for sale are stored on or picked up from the site. Operators may be commercial or nonprofit entities.

**“Wholesale and industry sales category”** means a category of uses under Chapter 15.303 NMC that sell goods or merchandise to retailers, to industrial, commercial, institutional, or other professional business users, or to other wholesalers and related subordinated services. Items are only occasionally sold directly to the general public.

**“Warehouse, storage and distribution category”** means a category of uses under Chapter 15.303 NMC that involve the storage or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. It includes data centers that store and distribute electronic data. There is little on-site sales activity with the customer present.

**Use Categories**

**15.303.421 Retail sales – General category.**

A. Characteristics. General retail sales uses sell or rent goods to the general public. Items are sold indoors, or, if outdoors, are limited to small items that do not require machinery to load to customers. Most items for sale are stored on or picked up from the site. Operators may be commercial or nonprofit entities.

**15.303.503 Wholesale and industry sales category.**

A. Characteristics. Wholesale sales uses sell goods or merchandise to retailers, to industrial, commercial, institutional, or other professional business users, or to other wholesalers and related subordinated services. Items are only occasionally sold directly to the general public.

**15.303.504 Warehouse, storage and distribution category.**

A. Characteristics. Warehouse. Storage and distribution uses involve the storage, or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. It includes data centers that store and distribute electronic data. There is little on-site sales activity with the customer present.

	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
400	COMMERCIAL USES																			
	Retail sales - General						P (20)	P (15)	P (21)	P		P (23)								
500	INDUSTRIAL USES																			
	Wholesale and industry sales							C (31)			P (31)	P	P	P	P					P(33)
	Warehouse, storage and distribution										P (32)	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.

- (15) Facility over 40,000 square feet gross floor area requires a conditional use permit.
- (20) Businesses in the C-1 zone that have hours of operation between 10:00 p.m. and 7:00 a.m. require a conditional use permit.
- (21) Drive-up service windows accessory to an existing business on the site with walk-in customer service, such as a drive-up bank window, are allowed only with a conditional use permit. Otherwise, drive-up service windows, except those in service on April 1, 2002, are prohibited. Changes in use will not be allowed.
- (23) Limited to secondhand stores.
- (31) Allowed indoors only.
- (32) Allowed indoors only. Outdoor use requires a conditional use permit.
- (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.

Newberg Zoning Table (Retail/Wholesale Uses)

		Retail				Wholesale			
		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									
R-4 Manufactured Dwelling									
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								
	ARO Airport Residential Overlay								
<b>Commercial</b>									
C-1 Neighborhood Commercial									
C-2 Community Commercial									
C-3 Central Business District									
C-4 Riverfront District									
SD Springbrook District									

		Retail				Wholesale			
		YES	NO	P	C	YES	NO	P	C
	<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 - Hospitability								
	CC Civic Corridor Overlay								
	<b>Community Facilities</b>								
	CF Community Facilities								
	<b>Subdistricts</b>								
	CF/RF Community Facilities								
	RF 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								
	II Interim Industrial Use Overlay								

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		Retail				Wholesale			
		YES	NO	P	C	YES	NO	P	C
	AIO Airport Industrial Overlay								
<b>Other</b>									
	<b>Subdistricts</b>								
	H Historic Landmarks								
	SC Stream Corridor Overlay								
	BI Bypass Interchange Overlay								
	AO Airport Overlay								
	FHO Flood Hazard Overlay								

Newberg Zoning Table (Laboratories/Research Uses)

		Labs				Research			
		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									
R-4 Manufactured Dwelling									
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								

		Labs				Research			
		YES	NO	P	C	YES	NO	P	C
	RP/SP Specific Plan								
	RP/LU Residential Professional – Limited Use Overlay								
	ARO Airport Residential 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								
	<b>Community Facilities</b>								
	CF Community Facilities								
	<b>Subdistricts</b>								
	CF/RF Community Facilities								
	RF Riverfront District								
	<b>Institutional</b>								
	I Institutional								
	<b>Subdistricts</b>								
	IO Institutional Overlay								

**"Working Together For A Better Community-Serious About Service"**

		Labs				Research			
		YES	NO	P	C	YES	NO	P	C
<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								
	AO Airport Overlay								
	FHO Flood Hazard Overlay								

**TIME**

HB 3400, Section 33 allows local governments to regulate the hours of operation (time) of marijuana retail operations. 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:**

**(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;
  - (c) Reasonable conditions on the manner in which a marijuana wholesaler licensed under section 21, chapter 1, Oregon Laws 2015, may sell marijuana at wholesale;
  - (d) Reasonable limitations on the hours during which a marijuana retailer licensed under section 22, chapter 1, Oregon Laws 2015, may operate;
  - (e) Reasonable conditions on the manner in which a marijuana retailer licensed under section 22, chapter 1, Oregon Laws 2015, may sell marijuana items;
  - (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
  - (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.
- (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.

Oregon Administrative Rule, Division 25 establishes hours of retail sales to consumers. Specifically the rule reads:

#### **845-025-2820**

##### **Retailer Operational Requirements**

###### **(1) A retailer may:**

- (a) Only receive marijuana items from a producer, wholesaler, processor or laboratory;
  - (b) Only sell marijuana items to a consumer from the licensed premises, unless sale is made pursuant to a bona fide order as described in OAR 845-025-2880;
  - (c) Only sell up to the following amounts at any one time to a consumer within one day:
    - (A) One ounce of usable marijuana;
    - (B) 16 ounces of a cannabinoid product in solid form;
    - (C) 72 ounces of a cannabinoid product in liquid form;
    - (D) Five grams of cannabinoid extracts or concentrate, whether sold alone or contained in an inhalant delivery system;
    - (E) Four immature marijuana plants; and
    - (F) Ten marijuana seeds;
  - (d) Refuse to sell marijuana items to a consumer; and
  - (e) Only sell to consumers between the hours of 7:00 a.m. and 10 p.m. local time.
- (2) A retailer may not:
- (a) Provide free samples of a marijuana item to a consumer;

- (b) Sell or give away pressurized containers of butane or other materials that could be used in the home production of marijuana extracts;
  - (c) Require a consumer to purchase other products or services as a condition of purchasing a marijuana item or receiving a discount on a marijuana item;
  - (d) Sell a marijuana item for less than the cost of acquisition;
  - (e) Provide coupons or offer discounts, except that uniform volume discounts are permitted;
  - (f) Permit consumers to be present on the licensed premises or sell to a consumer between the hours of 10:00 p.m. and 7:00 a.m. local time the following day; or
  - (g) Sell any product derived from industrial hemp, as that is defined in ORS 571.300, that is intended for human consumption, ingestion, or inhalation, unless it has been tested, labeled and packaged in accordance with these rules.
- (3) A retailer's pricing on marijuana items must remain consistent during each day.
- (4) Prior to completing the sale of a marijuana item to a consumer, a retailer must verify that the consumer has a valid, unexpired government-issued photo identification and must verify that the consumer is 21 years of age or older by viewing the consumer's:
- (a) Passport;
  - (b) Driver license, whether issued in this state or by any other state, as long as the license has a picture of the person;
  - (c) Identification card issued under ORS 807.400;
  - (d) United States military identification card; or
  - (e) Any other identification card issued by a state that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.
- (5) Marijuana items offered for sale by a retailer must be stored in such a manner that the items are only accessible to authorized representatives until such time as the final sale to the consumer is completed.
- (6) For purposes of this rule, "coupon" means any coupon, ticket, certificate token or any other material that a person may use to obtain a price reduction or rebate in connection with the acquisition or purchase of a marijuana item.

There are no additional provisions in ORS or OAR's regarding hours of operation for wholesalers, laboratories or research certificates. For laboratories and research facilities if they were permitted in industrial districts they could be considered to be similar to an industrial operation, the Development Code does not limit hours of operation for industrial type uses. For Medical Marijuana Dispensaries Council adopted operational hours of 9 AM - 8 PM.

## **MANNER**

HB 3400, Section 33 allows local governments to regulate the manner of recreational marijuana wholesale and retail uses. 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:**

**(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;**

**(c) Reasonable conditions on the manner in which a marijuana wholesaler licensed under section 21, chapter 1, Oregon Laws 2015, may sell marijuana at wholesale;**

**(d) Reasonable limitations on the hours during which a marijuana retailer licensed under section 22, chapter 1, Oregon Laws 2015, may operate;**

**(e) Reasonable conditions on the manner in which a marijuana retailer licensed under section 22, chapter 1, Oregon Laws 2015, may sell marijuana items;**

**(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**

**(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.**

**(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, Sections 19 and 20 establishes requirements for marijuana handlers in recreational marijuana retail operations. Specifically the law reads:

(Marijuana Handlers)

**SECTION 19. (1) An individual who performs work for or on behalf of a person who holds a license under section 22, chapter 1, Oregon Laws 2015, must have a valid permit issued by the Oregon Liquor Control Commission under section 20 of this 2015 Act if the individual participates in:**

**(a) The possession, securing or selling of marijuana items at the premises for which the license has been issued;**

**(b) The recording of the possession, securing or selling of marijuana items at the premises**

for which the license has been issued; or

(c) The verification of any document described in section 16, chapter 1, Oregon Laws 2015.

(2) A person who holds a license under section 22, chapter 1, Oregon Laws 2015, must verify that an individual has a valid permit issued under section 20 of this 2015 Act before allowing the individual to perform any work described in subsection (1) of this section at the premises for which the license has been issued.

**SECTION 20.** (1) The Oregon Liquor Control Commission shall issue permits to qualified applicants to perform work described in section 19 of this 2015 Act. The commission shall adopt rules establishing:

(a) The qualifications for performing work described in section 19 of this 2015 Act;

(b) The term of a permit issued under this section;

(c) Procedures for applying for and renewing a permit issued under this section; and

(d) Reasonable application, issuance and renewal fees for a permit issued under this section.

(2)(a) The commission may require an individual applying for a permit under this section to successfully complete a course, made available by or through the commission, through which the individual receives training on:

(A) Checking identification;

(B) Detecting intoxication;

(C) Handling marijuana items;

(D) The content of sections 3 to 70, chapter 1, Oregon Laws 2015, and rules adopted under sections 3 to 70, chapter 1, Oregon Laws 2015; and

(E) Any matter deemed necessary by the commission to protect the public health and safety.

(b) The commission or other provider of the course may charge a reasonable fee for the course.

(c) The commission may not require an individual to successfully complete the course more than once, except that:

(A) As part of a final order suspending a permit issued under this section, the commission may require a permit holder to successfully complete the course as a condition of lifting the suspension; and

(B) As part of a final order revoking a permit issued under this section, the commission shall require an individual to successfully complete the course prior to applying for a new permit.

(3) The commission shall conduct a criminal records check under ORS 181.534 on an individual applying for a permit under this section.

(4) Subject to the applicable provisions of ORS chapter 183, the commission may suspend, revoke or refuse to issue or renew a permit if the individual who is applying for or who holds the permit:

(a) Is convicted of a felony, except that the commission may not consider a conviction for the manufacture or delivery of marijuana if the date of the conviction is two or more years before the date of the application or renewal;

(b) Violates any provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or any rule adopted under sections 3 to 70, chapter 1, Oregon Laws 2015; or

**(c) Makes a false statement to the commission.**

**(5) A permit issued under this section is a personal privilege and permits work described under section 19 of this 2015 Act only for the individual who holds the permit.**

Oregon Administrative Rule, Division 25 establishes requirements for handlers in recreational marijuana retail operations. Specifically the rule reads:

## **MARIJUANA HANDLER PERMITS**

### **845-025-5500**

#### **Marijuana Handler Permit and Retailer Requirements**

- (1) A marijuana handler permit is required for any individual who performs work for or on behalf of a marijuana retailer if the individual participates in:
- (a) The possession, securing or selling of marijuana items at the premises for which the license has been issued;
  - (b) The recording of the possession, securing or selling of marijuana items at the premises for which the license has been issued;
  - (c) The verification of any document described in section 16, chapter 1, Oregon Laws 2015; or
  - (d) The direct supervision of a person described in subsections (a) to (c) of this section.
- (2) An individual who is required by section (1) of this rule to hold a marijuana handler permit must carry that permit on his or her person at all times when performing work on behalf of a marijuana retailer.
- (3) A person who holds a marijuana handler permit must notify the Commission in writing within 10 days of any conviction for a misdemeanor or felony. (4) A marijuana retailer must verify that an individual has a valid marijuana handler permit issued in accordance with OAR 845-025-5500 to 845-025-5590 before allowing the individual to perform any work at the licensed premises.

### **845-025-5520**

#### **Marijuana Handler Applications**

- (1) In order to obtain a marijuana handler permit an individual must submit an application on a form prescribed by the Commission. The application must contain the applicant's:
- (a) Name;
  - (b) Mailing address;
  - (c) Date of birth;
  - (d) Signature; and
  - (e) Response to conviction history questions.
- (2) In addition to the application an applicant must submit:
- (a) A copy of a driver's license or identification card issued by one of the fifty states in the United States of America or a passport;
  - (b) The applicable fee as specified in OAR 845-025-1060; and
  - (c) Proof of having completed a marijuana handler education course and passed the examination.
- (3) If an application does not contain all the information requested or if the information and fee required in section (2) of this rule is not provided to the Commission, the application will be returned to the individual as incomplete, along with the fee.
- (4) If an application is returned as incomplete, the individual may reapply at any time.

#### **845-025-5540**

##### **Marijuana Handler Permit Denial Criteria**

- (1) The Commission must deny an initial or renewal application if the applicant:
  - (a) Is not 21 years of age or older; or
  - (b) Has not completed the marijuana handler education course and passed the examination.
- (2) The Commission may deny a marijuana handler permit application, unless the applicant shows good cause to overcome the denial criteria, if the applicant:
  - (a) Has been convicted of a felony, except for a felony described in section 20(4)(a), chapter 614, Oregon Laws 2015;
  - (b) Has violated a provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or these rules; or
  - (c) Makes a false statement to the Commission.
- (3) If the Commission denies an application under subsection (2)(b) or (c) of this rule the individual may not reapply within two years of the date the Commission received the application.
- (4) A Notice of Denial must be issued by the Commission in accordance with ORS 183. Stat.

#### **845-025-5560**

##### **Marijuana Handler Course Education and Examination Requirements**

- (1) An individual must, prior to applying for a marijuana handler permit, complete an approved marijuana handler education course, pass the required examination, and pay the fee specified in OAR 845-025-1060.
- (2) An individual must score at least 70 percent on the marijuana handler course examination in order to pass.
  - (a) An individual who does not pass the examination may retake the examination up to two times within 90 days of the date the individual took the course. If the individual fails to pass both retake examinations the individual must retake the handler education course.
- (3) An individual must take a marijuana handler education course at least every five years prior to applying for renewal of a marijuana handler permit.
- (4) The Commission may require additional education or training for permit holders at any time, with adequate notice to permit holders.

#### **845-025-5580**

##### **Marijuana Handler Renewal Requirements**

- (1) An individual must renew his or her marijuana handler permit every five years by submitting a renewal application, on a form prescribed by the Commission and the applicable fee specified in OAR 845-025-1060.
- (2) Renewal applications will be reviewed in accordance with OAR 845-025-5520 and 845-025-

#### **845-025-5590**

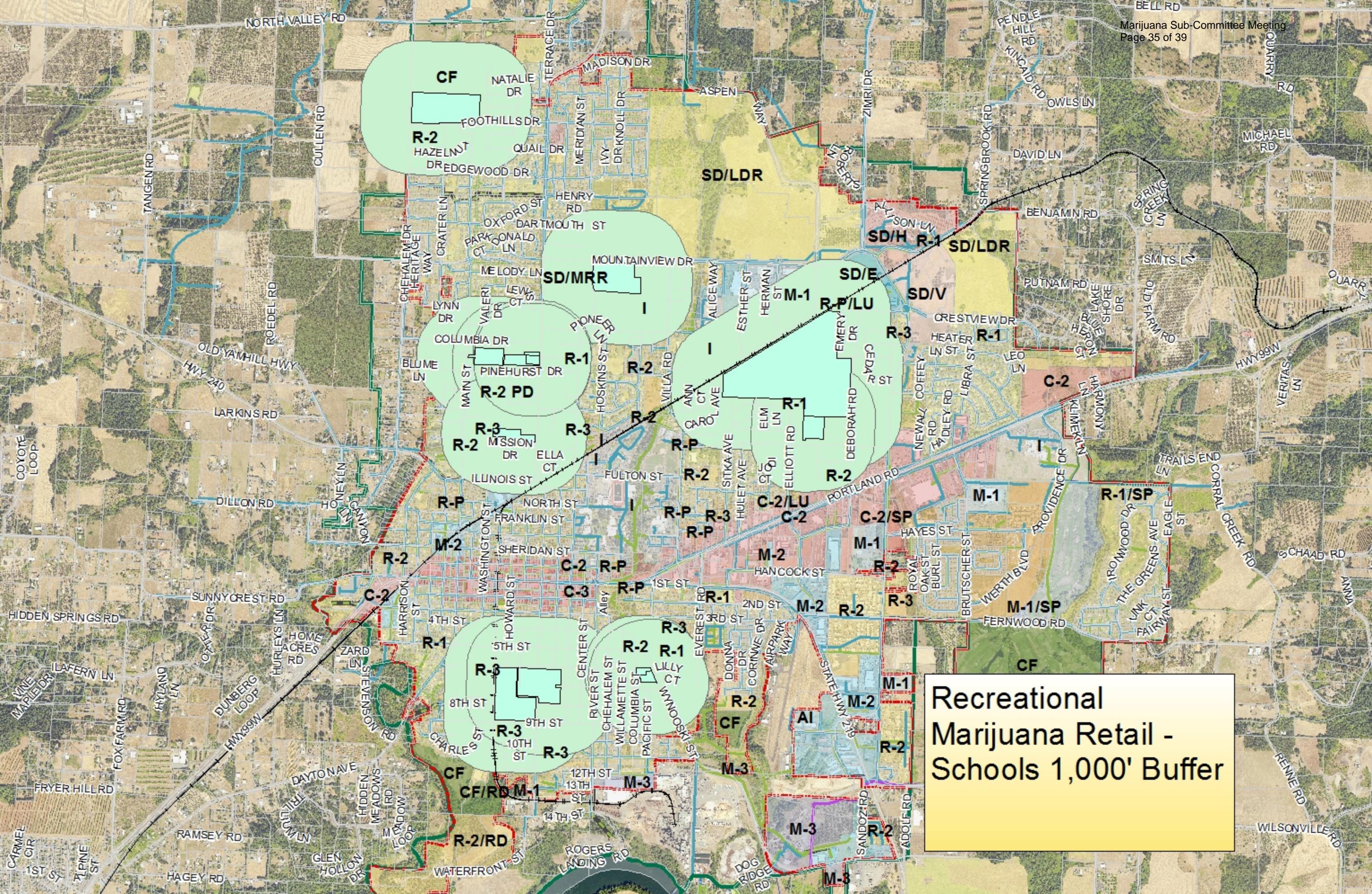
##### **Suspension or Revocation**

- (1) The Commission may suspend or cancel the permit of any marijuana handler if the handler:
  - (a) Has been convicted of a felony, except for a felony described in section 20, chapter 614, Oregon Laws 2015(4)(a);
  - (b) Has violated a provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or these rules; or
  - (c) Makes a material false statement to the Commission.
- (2) If an individual's permit is canceled under sections (1)(b) or (c) of this rule the individual may not reapply within two years from the date a final order of revocation is issued.

(3) A notice of suspension or revocation must be issued by the Commission in accordance with ORS 183.

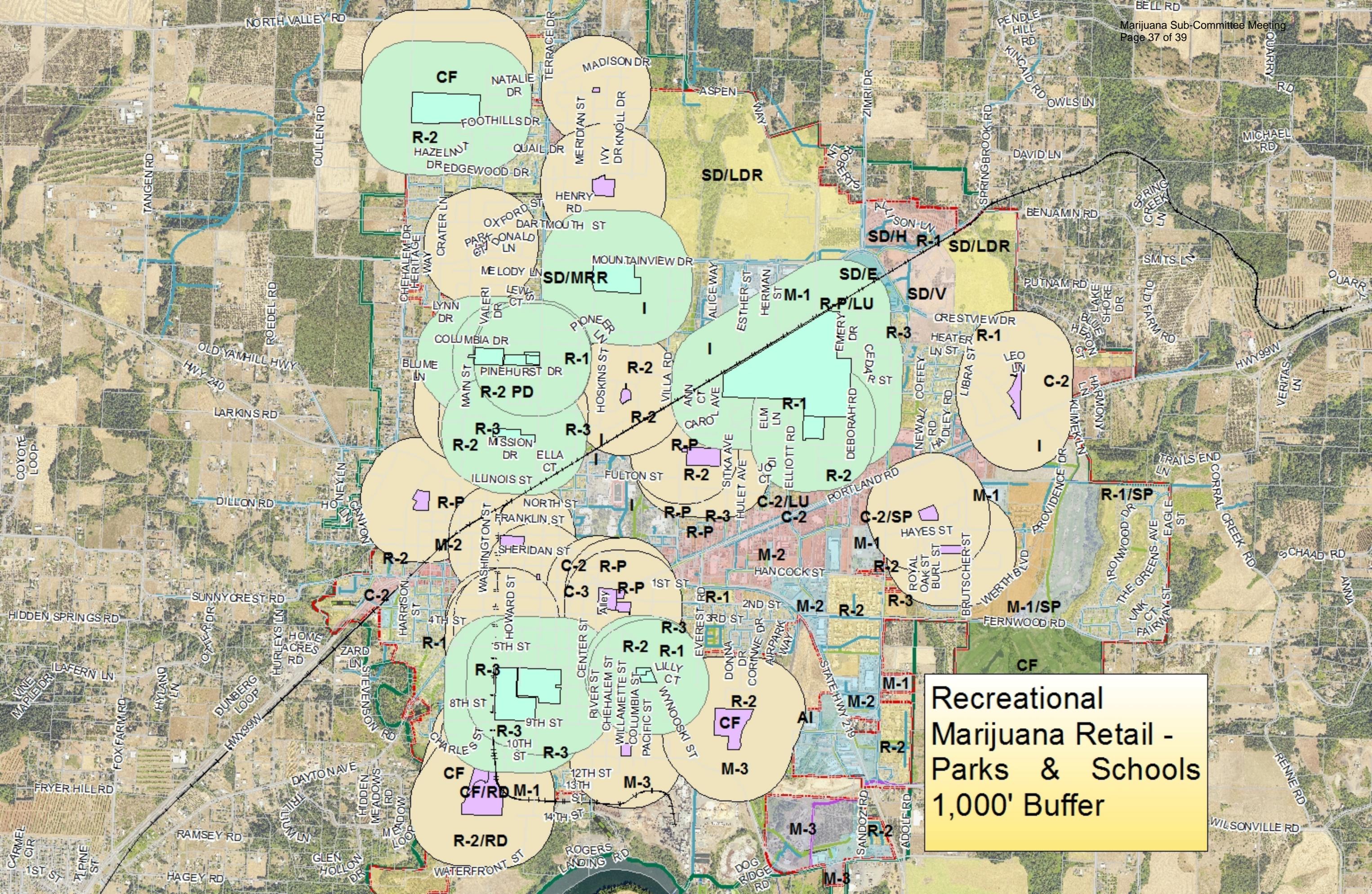
There are a variety of other operational requirements for recreational marijuana retail operations. These include Bonds and Liability Insurance (HB 3400, Sections 21 and 22); Tracking system for sales (HB 3400, Section 23 and OAR 845-025-7500 thru 845-025-7590); Identification requirements (HB 3400, Section 24); Protect Individuals Under the Age of 21 (HB 3400, Sections 25 - 28); Testing of Marijuana Products (HB 3400, Sections 91- 99 and OAR 845-025-5700 thru 845-025-5740); Labeling and Packaging (HB 3400, Sections 100 – 112 and 845-025-7000 thru 845-025- 760); Delivery (OAR 845-025-7700); Advertising (OAR 845-025-8000 thru 845-025-8080); Security and Alarm System (OAR 845-025-1400 thru 845-025-1460); Prizes and Giveaways (HB 3400, Section 49).

Attachments: 1. 1,000 foot buffer from public, private or parochial schools  
2. 1,000 foot buffer from parks  
3. 1,000 foot buffer from schools & parks



Recreational  
Marijuana Retail -  
Schools 1,000' Buffer





Recreational  
Marijuana Retail -  
Parks & Schools  
1,000' Buffer

## Recreational Marijuana, Paraphernalia & Taxes Subcommittee Timeline

2/4/16

### *\*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 12, 2016 – Subcommittee reviews Recreational Marijuana Producer and Processor – Place, Time and Manner regulations*

January 12, 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**

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 Paraphernalia Regulations and Taxes*