



**MARIJUANA SUBCOMMITTEE AGENDA
MAY 10, 2016, 8:00 AM
NEWBERG CITY HALL 414 East First Street
Permit Center Conference Room**

- I. CALL MEETING TO ORDER**
- II. ROLL CALL**
- III. ELECTION OF CHAIR**
- IV. APPROVAL OF MINUTES – March 3, 2016**
- V. POTENTIAL DEVELOPMENT CODE MODIFICATIONS FOR MEDICAL AND RECREATIONAL MARIJUANA BASED ON 2016 LEGISLATIVE BILLS**
- VI. FUTURE MEETING SCHEDULE**
- VII. 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 Office Assistant II at (503) 537-1240. For TTY services please dial 711.



MARIJUANA SUBCOMMITTEE MEETING
March 3, 2016 1:00 pm
Newberg City Hall, 414 East First St
Permit Center Conference Room

Chair Tony Rourke called the meeting to order at 1:02 p.m.

ROLL CALL:

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

Staff Present: Doug Rux, Community Development Director
Bobbie Morgan, Office Assistant II Truman Stone, City Attorney
Shelden Clay, City Detective

APPROVAL OF MINUTES:

MOTION: Rourke/McKinney moved to approve the February 4, 2016, minutes. Motion carried (2 Yes/ 0 No).

PARAPHERNALIA:

City Attorney Truman Stone gave a handout of the most current State Statute regarding marijuana to replace pages in the packet. In the statute, it was illegal to possess drug paraphernalia with the intent to sell or deliver. Measure 91 created a new section in the statute that gave a definition for marijuana paraphernalia which was no longer illegal. The Municipal Code created a local ordinance violation for drug paraphernalia, but there was no definition of possession with the intention to sell. He was asking for guidance on whether the Code needed modifications or if it should be repealed and the City would be under the state statute.

Police Detective Sheldon Clay presented ways people ingested marijuana and showed examples that had been seized prior to the change in the statute.

There was discussion regarding the paraphernalia items.

CA Stone suggested repealing Municipal Code sections 9.10.010 and .020 regarding possession of less than an ounce of marijuana and an exemption for those holding medical marijuana cards, as these were pre-empted by State law and .080A regarding the penalty. Regarding paraphernalia, the Municipal Code was parallel to the state statute with one exception, as an offense it was unlawful to use or have the intent to use paraphernalia, and the statute said it was illegal with only the intent to distribute or sell. There was no definition of marijuana paraphernalia in the Code which needed to be added.

Detective Clay said one of the issues was having a piece of paraphernalia that had been used, and they would like to be able to charge minors in possession if there was marijuana residue on the paraphernalia. The State Statute only discussed the intent to sell, not the intent to use, and if minors possessed marijuana paraphernalia



they would not be violating the state statute. Marijuana use among young people needed to be specifically addressed.

CA Stone said it did not create criminal offenses, but would be infractions equivalent to traffic fines, but police officers would be able to seize the paraphernalia. The possession with intent to use was only in the Code, not in the state statute.

Detective Clay thought there should be a distinction between drug paraphernalia and marijuana paraphernalia in the Code to allow for what was now legal by the state statute, and address the issue of minors with the intent to use even for marijuana paraphernalia. The current Code covered drug paraphernalia, but did not cover marijuana paraphernalia use. The statute only covered intent to sell, and the Code addressed the possession.

Chair Rourke thought the age should also be looked at, as it should be 21 and under instead of 18 and under.

Councilor McKinney was in favor of mirroring the State and addressing any ambiguity in the Code so it was simplest for the people enforcing the Code.

MOTION: Bacon/Rourke moved to repeal Municipal Code sections 9.10.010, .020, and .080 A as they no longer met state statute. Motion passed (2 Yes/ 1 No [McKinney]).

MOTION: Rourke/Bacon moved to add a definition of marijuana paraphernalia to the Municipal Code that mirrored ORS 475.525 subsection 4. Motion carried (3 Yes/ 0 No).

MOTION: Rourke/Bacon moved to change the Code section 9.10.050 C to say delivery of drug or marijuana paraphernalia to a minor under the age of 21 would be a violation. Motion carried (3 Yes/ 0 No).

Councilor Bacon asked what happened if a minor had a medical marijuana card. CA Stone answered with the way it was written there was no exception. They could create a new subsection where possessing marijuana paraphernalia or delivering marijuana paraphernalia to a minor possessing a medical marijuana card was exempt.

Detective Clay explained the different types medical marijuana cards.

MOTION: Rourke/Bacon moved to exempt medical marijuana cardholders in .050. Motion carried (3 Yes/ 0 No).

MOTION: Rourke/McKinney moved to keep in the Code that possession with intent to use was a municipal offense. Motion carried (3 Yes/ 0 No).

RECREATIONAL MARIJUANA TAXES:

Community Development Director Doug Rux presented information on recreational marijuana taxes. The City had adopted an ordinance in 2014 placing a 5% tax on gross sales of medical marijuana and 10% tax on gross sales of recreational marijuana. HB 3400 and HB 2041 indicated that local authority had to go to a vote before implementing a tax and the maximum amount of tax would be 3%. There was a question whether Newberg's ordinance was grandfathered in as it came before the house bills that were passed in 2015.



CA Stone thought that the ordinance was grandfathered in. The counter argument appeared to be that the house bills attempted to pre-empt local government from having taxes other than the 3%. The City had already received tax revenue from medical marijuana.

CDD Rux continued by explaining how the State taxed producers, how they would also collect a 17% tax, and for a retailer it was 17% but they got to keep 2% of that amount, who would collect the tax, financial records for retailers, and distribution of the tax. Local jurisdictions would receive 10% of the tax for local law enforcement. Up until July 1, 2017, it would be based on population and after July 1, 2017, it would be based on the number of licenses that were issued in the community. If a local jurisdiction banned a producer, processor, wholesaler, or retailer, they would not be allowed to participate in the state shared revenue for marijuana. Newberg had not banned any of these. There was a question of whether or not they should be taxing medical marijuana. He asked if they wanted to refer a 3% tax to the voters in case the 10% was challenged.

CA Stone referred to page 8 and discussed the legislative intent to prohibit local taxes. He did not think it was retroactive and repealing previous ordinances, but it would be an issue for the court to decide. There were strong arguments that the intent was to only allow the 3% local tax, and there were strong arguments for home rule authority and that it was not explicitly explained in the house bills. It was uncertain how the issue would come out if it went to court. There was no current litigation on this issue.

Councilor McKinney asked if staff had a recommendation. CA Stone responded a safe harbor would be to send the 3% tax to the voters and repeal the local taxes that were imposed.

Chair Rourke said it would be close to the same amount as the current medical marijuana tax if the 3% was passed and the City received 1.5% from the State, the City would get 4.5%. There was a question of whether they should tax medical marijuana as it was considered being similar to prescriptions.

There was discussion regarding whether or not the local tax ordinance should be repealed before the vote.

CA Stone commented that they could let voters know the 3% would replace the additional local tax. The local tax had no restrictions on how the money was spent, but the State tax was restricted to law enforcement purposes. He thought there would be fixes to the marijuana system at every legislative session for the next several years. There was some impetus to merge the medical and recreational which would make things simpler.

Councilor McKinney asked how soon a recommendation was needed. CDD Rux responded the hope was the subcommittee would come up with a recommendation that day. The election materials needed to be submitted in June for the November election. He gave options for what to do if the State legislature passed other legislation that would affect the recommendations the subcommittee had already made.

There was discussion regarding the options for the taxing issue.

Councilor Bacon did not want to tax marijuana at all.

Councilor McKinney thought it should be taxed to give the Police Department resources for dealing with marijuana issues. He suggested waiting to see if the local tax ordinance passed in 2014 was challenged.

Chair Rourke suggested recommending this issue be decided by the full Council.

MOTION: Rourke/Bacon moved to bring the taxing issue to the full Council. Motion carried (3 Yes/ 0 No).



CDD Rux commented on wholesalers in residential areas. He had asked for clarification from OLCC, and OLCC said they would not issue a license to any of the categories in a primary residence.

FUTURE MEETING SCHEDULE:

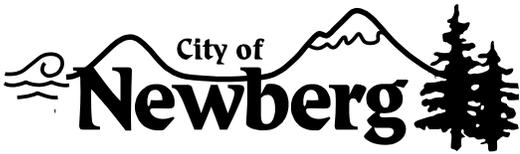
This was the last meeting of the subcommittee.

ADJOURNMENT: Councilor Rourke adjourned the meeting at 2:30 p.m.

Approved by the Marijuana Subcommittee this ____ day of _____, 2016.

Marijuana Subcommittee Chair

Bobbie Morgan, Office Assistant II



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To: Marijuana Subcommittee

From: Doug Rux, Community Development Director
Truman Stone, City Attorney

Date: May 2, 2016

The original Marijuana Subcommittee met between November 19, 2015 and March 3, 2016 to discuss possible regulations for medical and recreational marijuana. The subcommittee held its last meeting on March 3, 2016 discussing paraphernalia and taxes. The Oregon Legislature met in its short session in early 2016 and passed several new bills related to marijuana. These include SB 1601 (Taxes), SB 1511, HB 4014, SB 1598 and HB 4094 (Banking). The State also took prior legislation and incorporated them into ORS 475B – Cannabis Regulation (2015 Edition).

SB 1601 (Taxes) and HB 4049 (Banking) will not be the focus of this memorandum as taxes were discussed by the Subcommittee on March 3 and the City Council on April 4, 2016, and the marijuana banking bill is not applicable to the City. This leaves the remaining three bills passed by the legislature and signed by the Governor.

The City Council by Ordinance No. 20125-2780 adopted land use regulations for medical marijuana dispensaries and Ordinance No. 2016-2793 for medical marijuana grow sites and processors. The City Council also adopted land use regulations for recreational marijuana producers and processors by Ordinance No. 2016-2798. Local land use regulations for recreational marijuana wholesalers, laboratories, research certificates and retailers is pending before the City Council on May 16, 2016.

Provisions of SB 1511 that are applicable to land use place, time and manner are recreational marijuana producers, process, wholesalers and retailers with OLCC licenses that are now allowed to perform these activities for medical marijuana purposes but must register with OLCC for those activities (SB 1511, Sections 2-10). The law reads:

(Marijuana Producers)

SECTION 2. (1) As used in this section, “designated primary caregiver,” “marijuana processing site,” “medical marijuana dispensary” and “registry identification cardholder” have the meanings given those terms in ORS 475B.410.

(2) To produce marijuana for medical purposes, a marijuana producer that holds a license under ORS 475B.070 must register with the Oregon Liquor Control Commission under this section.

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- (3) The commission shall register a marijuana producer for the purpose of producing marijuana for medical purposes if the marijuana producer:**
- (a) Holds a license under ORS 475B.070;**
 - (b) Meets any qualifications adopted by the commission by rule;**
 - (c) Applies to the commission in a form and manner prescribed by the commission; and**
 - (d) Pays any fee adopted by the commission by rule.**
- (4)(a) A marijuana producer registered under this section may produce marijuana for a registry identification cardholder, and provide usable marijuana to the registry identification cardholder or to the designated primary caregiver of the registry identification cardholder, if the marijuana producer enters into an agreement with the registry identification cardholder for whom the marijuana producer is producing the marijuana. An agreement entered into under this subsection:**
- (A) Must be submitted to the commission in a manner prescribed by the commission;**
 - (B) Except as provided in subparagraph (C) of this paragraph, may not allow the marijuana producer to be compensated for producing the marijuana or providing the usable marijuana;**
 - (C) May require a registry identification cardholder, or a designated primary caregiver on behalf of a registry identification cardholder, to reimburse a marijuana producer for all costs associated with producing marijuana for the registry identification cardholder or providing usable marijuana to the registry identification cardholder or designated primary caregiver;**
 - (D) May not allow the marijuana producer to produce for the registry identification cardholder an amount of mature marijuana plants that exceeds the amount that a registry identification cardholder and a designated primary caregiver may jointly possess under ORS 475B.428;**
 - (E) May not allow the marijuana producer to provide to the registry identification cardholder an amount of usable marijuana that exceeds the amount that a registry identification cardholder and a designated primary caregiver may jointly possess under ORS 475B.430; and**
 - (F) May allow the marijuana producer to keep a portion of the usable marijuana harvested from the marijuana produced for the registry identification cardholder for the purposes of:**
 - (i) Providing usable marijuana to additional registry identification cardholders or designated primary caregivers; and**
 - (ii) Transferring or selling usable marijuana to marijuana processing sites or medical marijuana dispensaries.**
- (c) Marijuana produced for a registry identification cardholder, and usable marijuana transferred or sold to a marijuana processing site or medical marijuana dispensary, pursuant to an agreement entered into under this subsection must be tracked by the system developed and maintained under ORS 475B.150.**
- (d)(A) Upon request by the commission, the Oregon Health Authority shall provide the commission, notwithstanding any laws relating to the confidentiality of information under ORS 475B.460 and 475B.462, with the registration information of:**
- (i) A registry identification cardholder who enters into an agreement under this subsection; or**
 - (ii) A registry identification cardholder, designated primary caregiver, marijuana processing site or medical marijuana dispensary that receives usable marijuana pursuant to an**

agreement entered into under this subsection.

(B) Registration information received by the commission under this paragraph that is confidential and not subject to public disclosure under ORS 475B.460 and 475B.462 remains confidential and not subject to public disclosure after being provided to the commission.

(e) Marijuana produced pursuant to an agreement entered into under this subsection is not subject to rules restricting the size of mature marijuana plant grow canopies adopted by the commission under ORS 475B.075.

(5)(a) The commission shall adopt rules necessary to administer this section, including rules:

(A) For the equitable conversion of a number of mature marijuana plants to a size of mature marijuana plant grow canopy;

(B) Limiting the amount of marijuana that may be produced under section (4) of this section;

(C) Limiting the amount of usable marijuana that may be provided, transferred or sold under subsection (4)(a)(F) of this section;

(D) Limiting the number of registry identification cardholders for whom a marijuana producer registered under this section may produce marijuana; and

(E) Prohibiting a registry identification cardholder from entering into more than one agreement with a marijuana producer registered under this section.

(b) The rules must provide that any fee adopted by the commission under subsection (3)(d) of this section be in an amount reasonably calculated to not exceed, together with other fees collected under ORS 475B.010 to 475B.395, the cost of administering ORS 475B.010 to 475B.395.

(Marijuana Processors)

SECTION 3. (1) To process marijuana for medical purposes, a marijuana processor that holds a license under ORS 475B.090 must register with the Oregon Liquor Control Commission under this section.

(2) The commission shall register a marijuana processor for the purpose of processing marijuana for medical purposes if the marijuana processor:

(a) Holds a license under ORS 475B.090;

(b) Meets any qualifications adopted by the commission by rule;

(c) Applies to the commission in a form and manner prescribed by the commission; and

(d) Pays any fee adopted by the commission by rule.

(3) A marijuana processor registered under this section may process marijuana and usable marijuana into medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

(4) The commission shall adopt rules necessary to administer this section. The rules must provide that any fee adopted by the commission under subsection (2)(d) of this section be in an amount reasonably calculated to not exceed, together with other fees collected under ORS 475B.010 to 475B.395, the cost of administering ORS 475B.010 to 475B.395.

(Marijuana Wholesalers)

SECTION 4. (1) To sell marijuana at wholesale for medical purposes, a marijuana wholesaler that holds a license under ORS 475B.100 must register with the Oregon Liquor Control Commission under this section.

(2) The commission shall register a marijuana wholesaler for the purpose of selling marijuana at wholesale for medical purposes if the marijuana wholesaler:

- (a) Holds a license under ORS 475B.100;
- (b) Meets any qualifications adopted by the commission by rule;
- (c) Applies to the commission in a form and manner prescribed by the commission; and
- (d) Pays any fee adopted by the commission by rule.

(3) A marijuana wholesaler registered under this section may sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts at wholesale.

(4) The commission shall adopt rules necessary to administer this section. The rules must provide that any fee adopted by the commission under subsection (2)(d) of this section be in an amount reasonably calculated to not exceed, together with other fees collected under ORS 475B.010 to 475B.395, the cost of administering ORS 475B.010 to 475B.395.

(Marijuana Retailers)

SECTION 5. (1) As used in this section, “designated primary caregiver” and “registry identification cardholder” have the meanings given those terms in ORS 475B.410.

(2) To sell marijuana at retail for medical purposes, a marijuana retailer that holds a license under ORS 475B.110 must register with the Oregon Liquor Control Commission under this section.

(3) The commission shall register a marijuana retailer for the purpose of selling marijuana at retail for medical purposes if the marijuana retailer:

- (a) Holds a license under ORS 475B.110;
- (b) Meets any qualifications adopted by the commission by rule;
- (c) Applies to the commission in a form and manner prescribed by the commission; and
- (d) Pays any fee adopted by the commission by rule.

(4) A marijuana retailer registered under this section:

- (a) May sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to registry identification cardholders and designated primary caregivers;
- (b) May not sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to individuals other than registry identification cardholders and designated primary caregivers;
- (c) May sell usable marijuana and medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to registry identification cardholders and designated primary caregivers at a discounted price; and
- (d) May provide usable marijuana and medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to registry identification cardholders and designated primary caregivers free of charge.

(5) The commission shall adopt rules necessary to administer this section. The rules must provide that any fee adopted by the commission under subsection (3)(d) of this section

be in an amount reasonably calculated to not exceed, together with other fees collected under ORS 475B.010 to 475B.395, the cost of administering ORS 475B.010 to 475B.395.

SECTION 6. Notwithstanding the provisions of ORS 475B.400 to 475B.525, rules adopted by the Oregon Health Authority under ORS 475B.400 to 475B.525 must allow for the provision, transfer and sale of usable marijuana as described in section 2 of this 2016 Act.

(General Rulemaking Authority)

SECTION 7. ORS 475B.070 is amended to read:

475B.070. (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. To hold a production license under this section, a marijuana producer:

(a) Must apply for a license in the manner described in ORS 475B.040;

(b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under ORS 475B.040 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; and

(c) 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 producer to annually renew a license issued under this section;

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

(c) Require marijuana produced by marijuana producers to be tested in accordance with ORS 475B.555;

(d) Allow a marijuana producer registered under section 2 of this 2016 Act to produce marijuana for medical purposes in the same manner that rules adopted under ORS 475B.010 to 475B.395 allow a marijuana producer to produce marijuana for nonmedical purposes, excepting those circumstances where differentiating between the production of marijuana for medical purposes and the production of marijuana for nonmedical purposes is necessary to protect the public health and safety;

[(d)] (e) Require marijuana producers to submit, at the time of applying for or renewing a license under ORS 475B.040, a report describing the applicant's or licensee's electrical or water usage; and

[(e)(A)] **(f)(A)** Require a marijuana producer to meet any public health and safety standards and industry best practices established by the commission by rule related to:

(i) The production of marijuana; or

(ii) The propagation of immature marijuana plants and the seeds of the plant Cannabis family Cannabaceae.

(B) For purposes of establishing rules under subparagraph (A)(ii) of this paragraph, the commission may not limit:

(i) The number of immature marijuana plants that may be possessed by a marijuana producer licensed under this section;

(ii) The size of the grow canopy a marijuana producer licensed under this section uses to grow

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immature marijuana plants; or

(iii) The weight or size of shipments of immature marijuana plants made by a marijuana producer licensed under this section.

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

(a) May not exceed the cost of administering ORS 475B.010 to 475B.395 with respect to marijuana producers;

(b) Shall be in the form of a schedule that imposes a greater fee for premises with more square footage or on which more mature marijuana plants are grown; and

(c) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.240.

SECTION 8. ORS 475B.090 is amended to read:

475B.090. (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 ORS 475B.040;

(b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under ORS 475B.040 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 ORS 475B.555; [and]

(d) Allow a marijuana processor registered under section 3 of this 2016 Act to process marijuana and usable marijuana into medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts in the same manner that rules adopted under ORS 475B.010 to 475B.395 allow a marijuana processor to process marijuana and usable marijuana into general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts, excepting those circumstances where differentiating between the processing of medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts and the processing of general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts is necessary to protect the public health and safety; and

[(d)] (e) 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 ORS 475B.010 to 475B.395 with respect to marijuana processors; and

(b) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.240.

SECTION 9. ORS 475B.100 is amended to read:

475B.100. (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, 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 ORS 475B.040;

(b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under ORS 475B.040 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 ORS 475B.555; *[and]*

(d) Allow a marijuana wholesaler registered under section 4 of this 2016 Act to sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts at wholesale in the same manner that rules adopted under ORS 475B.010 to 475B.395 allow a marijuana wholesaler to sell general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts at wholesale, excepting those circumstances where differentiating between the sale of medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts and the sale of general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts is necessary to protect the public health and safety; and

[(d)] **(e)** 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 ORS 475B.010 to 475B.395 with respect to marijuana wholesalers; and

(b) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.240.

SECTION 10. ORS 475B.110 is amended to read:

475B.110. (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:

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- (a) Must apply for a license in the manner described in ORS 475B.040;
- (b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under ORS 475B.040 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) **Except as provided in section 29b of this 2016 Act**, 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 ORS 475B.555; [and]
 - (d) **Subject to the limitations and privileges described in section 5 (4) of this 2016 Act, allow a marijuana retailer registered under section 5 of this 2016 Act to sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts at retail in the same manner that rules adopted under ORS 475B.010 to 475B.395 allow a marijuana retailer to sell general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts at retail, excepting those circumstances where differentiating between the sale of medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts and the sale of general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts is necessary to protect the public health and safety; and**
 - [(d)] (e) 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 ORS 475B.010 to 475B.395 with respect to marijuana retailers; and
 - (b) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.240.

SB 1511 also has new provisions that allow a reduced buffer for medical marijuana dispensaries and recreational marijuana retail stores from schools.

SECTION 29. (1) **Notwithstanding ORS 475B.450 (3)(d), a city or county may adopt an ordinance allowing a medical marijuana dispensary to be located within 500 feet of a public elementary or secondary school for which attendance is compulsory under ORS 339.020, or a private or parochial elementary or secondary school teaching children as described in ORS 339.030 (1)(a), if the county or city determines that a physical or geographic barrier capable of preventing children from traversing to the school separates the medical marijuana dispensary from the school.**

(2) **A city or county that adopts an ordinance under this section must inform the Oregon**

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Health Authority, in a form and manner prescribed by the authority, of the content and effective date of the ordinance.

SECTION 29b. (1) Notwithstanding ORS 475B.110 (2)(d), a city or county may adopt an ordinance allowing a premises for which a license has been issued under ORS 475B.110 to be located within 500 feet of a public elementary or secondary school for which attendance is compulsory under ORS 339.020, or a private or parochial elementary or secondary school teaching children as described in ORS 339.030 (1)(a), if the county or city determines that a physical or geographic barrier capable of preventing children from traversing to the school separates the premises from the school.

(2) A city or county that adopts an ordinance under this section must inform the Oregon Liquor Control Commission, in a form and manner prescribed by the commission, of the content and effective date of the ordinance.

HB 4014 has modified the language for Land Use Compatibility Statements. The law reads:

LIQUOR CONTROL COMMISSION LICENSEES

SECTION 11. ORS 475B.063 is amended to read:

475B.063. (1) Prior to [*the issuance of*] **receiving** a license under ORS 475B.070, 475B.090, 475B.100 or 475B.110, [*the Oregon Liquor Control Commission*] **an applicant** 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 **Oregon Liquor Control** Commission may not issue a license if the land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.

(2) Except as provided in subsection (3) of this section, a city or county that receives a request for a land use compatibility statement under this section 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.

(3) A city or county that receives a request for a land use compatibility statement under this section is not required to act on that request during the period that the commission discontinues licensing those premises pursuant to ORS 475B.800 (4)(b).

[(3)] **(4) A city or county action concerning a land use compatibility statement under this section is not a land use decision for purposes of ORS chapter 195, 196, 197, [*or*] 215 or 227.**

HB 4014 added language for public disclosure of information. The law reads:

EXEMPTION FROM PUBLIC DISCLOSURE

SECTION 21. Section 22 of this 2016 Act is added to and made a part of ORS 475B.010 to 475B.395.

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SECTION 22. (1) Subject to subsection (2) of this section, information is exempt from public disclosure under ORS 192.410 to 192.505 if the information is:

(a) The address of a premises for which a license has been issued or for which an applicant has proposed to be licensed under ORS 475B.070, 475B.090 or 485B.100;

(b) Is related to the security plan or the operational plan for a premises for which a license has been issued or for which an applicant has proposed to be licensed under ORS 475B.070, 475B.090, 485B.100 or 475B.110; or

(c) Is related to any record that the Oregon Liquor Control Commission determines contains proprietary information of a person who holds a license under ORS 475B.070, 475B.090, 485B.100 or 475B.110.

(2) The exemption from public disclosure as provided by this section does not apply to a request for information if the request is made by a law enforcement agency.

HB 4014 added language for the ability of a medical marijuana grow site, medical processor and medical dispensary to transition to licensing by OLCC. The law reads:

**MEDICAL MARIJUANA BUSINESSES
APPLYING TO BE LICENSED BY THE
OREGON LIQUOR CONTROL COMMISSION**

SECTION 24. Section 25 of this 2016 Act is added to and made a part of ORS 475B.010 to 475B.395.

SECTION 25. (1) The Oregon Liquor Control Commission shall adopt by rule procedures by which:

(a) A person responsible for a marijuana grow site registered under ORS 475B.420, or, if multiple persons responsible for a marijuana grow site registered under ORS 475B.420 are located at the same address, each person responsible for a marijuana grow site located at the address, may apply for a license under ORS 475B.070 to transition from being registered by the Oregon Health Authority to being licensed by the commission;

(b) A marijuana processing site registered under ORS 475B.435 may apply for a license under ORS 475B.090 to transition from being registered by the authority to being licensed by the commission; and

(c) A medical marijuana dispensary registered under ORS 475B.450 may apply for a license under ORS 475B.110 to transition from being registered by the authority to being licensed by the commission.

(2)(a) In adopting rules under this section, the commission shall adopt, at a minimum, procedures by which the inventory possessed by a person responsible for a marijuana grow site, a marijuana processing site or a medical marijuana dispensary on the date on which the person responsible for a marijuana grow site, the marijuana processing site or the medical marijuana dispensary is first subject to tracking by the commission under ORS 475B.150:

(A) May be delivered to a premises for which a license has been issued under ORS 475B.090, 475B.100 or 475B.110; or

(B) May be sold to consumers by marijuana retailers that hold a license under ORS 475B.110.

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(b) Procedures adopted under this subsection must require a person responsible for a marijuana grow site registered under ORS 475B.420, or, if multiple persons responsible for a marijuana grow site registered under ORS 475B.420 are located at the same address, each person responsible for a marijuana grow site located at the address, to return to an individual to whom a registry identification card has been issued under ORS 475B.415, and for whom the person or persons are producing marijuana, all the marijuana and usable marijuana owned by the individual, except as otherwise allowed under a personal agreement entered into under ORS 475B.425, at the time that the person or the persons receive a license under ORS 475B.070.

HB 4014 modified language allowing cities to enter into an Intergovernmental Agreement (IGA) with the Department of Revenue to collect local marijuana taxes on behalf of a city. The Department of Revenue would charge a cost for the collection service. The law reads:

**(Intergovernmental Agreements Between Cities
and Counties and the Department of Revenue)**

SECTION 32. ORS 305.620 is amended to read:

305.620. (1) Any state agency or department may enter into agreements with any political subdivision of this state for the collection, enforcement, administration and distribution of local taxes of the political subdivision imposed upon or measured by gross or net income, wages or net earnings from self-employment, [or] local general sales and use taxes **or taxes imposed under ORS 475B.345.**

(2) The department or agency shall prescribe the rules by which the agreements entered into under subsection (1) of this section are administered.

(3) The department or agency shall prescribe the rules by which the taxes described by subsection (1) of this section are administered, collected, enforced and distributed.

(4) A political subdivision may appear as an intervenor at any conference held by the Department of Revenue or conference, hearing or proceeding held by another department or agency in connection with a local tax administered by the department or agency. The political subdivision may be represented by its own counsel. The department or agency shall adopt rules governing the procedures to be followed by the political subdivision in making an appearance.

(5) Costs incurred by the department or agency in the administration, enforcement, collection and distribution of taxes under the agreements entered into under subsection (1) of this section shall be first deducted from the taxes collected before distribution is made to the political subdivision which is a party to the agreement.

(6) The Oregon Tax Court shall have exclusive jurisdiction to review determinations of the Department of Revenue or orders of another department or agency relating to the collection, enforcement, administration and distribution of local taxes under agreements entered into under subsection (1) of this section.

(7) A proceeding for refund or to set aside additional taxes or taxes assessed when no return was filed may be initiated before the state agency or department.

(8) An appeal from a determination or an order may be taken by the taxpayer or by the political subdivision whose taxes are in issue, by filing a complaint with the clerk of the Oregon Tax Court at its principal office in Salem, Oregon, within 60 days after the notice of the determination of the Department of Revenue or the order of the department or agency is sent to the taxpayer or the

political subdivision. The filing of the complaint in the Oregon Tax Court shall constitute perfection of the appeal. Service of the taxpayer's complaint shall be accomplished by the clerk of the tax court by filing a copy of the complaint with the administrative head of the department or agency and a copy with the political subdivision. Service of the political subdivision's complaint shall be accomplished by the clerk of the tax court by filing a copy of the complaint with the administrative head of the department or agency and mailing a copy of the complaint to the taxpayer. The complaint of a taxpayer shall be entitled in the name of the person filing as plaintiff and the department or agency as defendant. The complaint of a political subdivision shall be entitled in the name of the political subdivision as plaintiff and the taxpayer and the department or agency as defendants. A copy of the order of the department or agency shall be attached to the complaint. All procedures shall be in accordance with ORS 305.405 to 305.494.

SB 1598 added new language on land use compatibility statements. The law reads:

LAND USE LAWS

SECTION 1. Section 2 of this 2016 Act is added to and made a part of ORS 475B.010 to 475B.395.

SECTION 2. The requirement under ORS 475B.063 to obtain a land use compatibility statement as a condition of receiving a license under ORS 475B.070 does not apply to an applicant if:

- (1) The applicant is applying for a license at an address where a marijuana grow site registered under ORS 475B.420 is located;**
- (2) The address is outside of city limits;**
- (3) At least one person responsible for a marijuana grow site located at the address first registered with the Oregon Health Authority under ORS 475B.420 before January 1, 2015;**
- (4) Each person responsible for a marijuana grow site located at the address first registered with the Oregon Health Authority under ORS 475B.420 before February 1, 2016; and**
- (5) The applicant is applying for a mature marijuana plant grow canopy of:**
 - (a) 5,000 square feet or less, if the marijuana is produced outdoors; or**
 - (b) 1,250 square feet or less, if the marijuana is produced indoors.**

SB 1598 modified language on local time, place and manner regulations. The law reads:

SECTION 4. ORS 475B.340 is amended to read:

475B.340. (1) For purposes of this section, "reasonable regulations" includes:

- (a) Reasonable conditions on the manner in which a marijuana producer licensed under ORS 475B.070 may produce marijuana **or in which a person who holds a certificate issued under ORS 475B.235 may produce marijuana or propagate immature marijuana plants;****
- (b) Reasonable conditions on the manner in which a marijuana processor licensed under ORS 475B.090 may process marijuana **or in which a person who holds a certificate issued under ORS 475B.235 may process marijuana;****
- (c) Reasonable conditions on the manner in which a marijuana wholesaler licensed under ORS 475B.100 may sell marijuana at wholesale;**
- (d) Reasonable limitations on the hours during which a marijuana retailer licensed under ORS**

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475B.110 may operate;

(e) Reasonable conditions on the manner in which a marijuana retailer licensed under ORS 475B.110 may sell marijuana items;

(f) Reasonable requirements related to the public's access to a premises for which a license **or certificate** has been issued under ORS 475B.070, 475B.090, 475B.100 [*or*], 475B.110 **or 475B.235**; and

(g) Reasonable limitations on where a premises for which a license **or certificate** may be issued under ORS 475B.070, 475B.090, 475B.100 [*or*], 475B.110 **or 475B.235** may be located.

(2) Notwithstanding ORS **30.935, 215.253 (1) or** 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 ORS 475B.070, 475B.090, 475B.100 or 475B.110, **or for which a certificate has been issued under ORS 475B.235**, 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:

(a) Adopt an ordinance that prohibits a premises for which a license has been issued under ORS 475B.110 from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under ORS 475B.110.

(b) **Adopt an ordinance after January 1, 2015, that imposes a setback requirement for an agricultural building used to produce marijuana located on a premises for which a license has been issued under ORS 475B.070 if the agricultural building:**

(A) **Was constructed on or before July 1, 2015, in compliance with all applicable land use and building code requirements at the time of construction;**

(B) **Is located at an address where a marijuana grow site first registered with the Oregon Health Authority under ORS 475B.420 on or before January 1, 2015;**

(C) **Was used to produce marijuana pursuant to the provisions of ORS 475B.400 to 475B.525 on or before January 1, 2015; and**

(D) **Has four opaque walls and a roof.**

[(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.]

With the changing state laws a reconciliation needs to occur between the place, time and manner regulations between medical marijuana and recreation marijuana. The attached tables summarize what has been approved locally and what is proposed before the City Council on May 16. There is a trend in the legislative changes to blending the two State marijuana programs or possibly eliminating the medical program and rolling it into the recreational program. This is evidenced by the changes in SB 511 where recreational producers, processors, wholesalers and retailers can now produce, process, wholesale and retail medical grade potency marijuana.

Examples of possible reconciliation issues between the two programs are as follows:

1. Medical marijuana dispensaries are a permitted use in C-2 and C-3 with a 1,000 buffer from schools and parks. Recreational retail marijuana is proposed to be a permitted use in C-1, C-2, C-3 and C-4 with a 1,000 buffer from schools and parks, a 1,000 foot separation between retailers and retailers and dispensaries. Should medical marijuana dispensaries also be permitted in C-1 and C-4?

2. Medical marijuana processors are permitted in M-1, M-2, M-3 and M-4-I. Recreational marijuana processors are permitted in indoors only in M-1, M-2, M-3 and M-4-I and a conditional use in C-2 with a 1,000 buffer from schools and parks. Should medical marijuana processors also be a conditional use in C-2 with the same school and park buffer requirement?
3. Medical marijuana wholesaler was originally not an identified category in State law. SB 1511 now allows medical marijuana wholesale activities. The City has a proposed recreational marijuana wholesale activity. Should this be changed to include medical marijuana?
4. Recreational marijuana retailers are proposed to be a permitted use in C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC and SD/H subdistricts with a 1,000 buffer to schools and parks, a 1,000 foot separation between retailers and retailers and dispensaries. Medical dispensaries are not permitted in these same subdistricts. Should medical dispensaries be permitted with the same restrictions in these subdistricts?
5. Medical marijuana processor is permitted in the M-1/SP and SD/E subdistricts. Recreational marijuana processors are prohibited in M-1/SP and permitted in SD/E. Should medical marijuana processor be prohibited in M-1/SP? or should recreational marijuana processor be permitted in M-1/SP?
6. Should the city modify its buffer distance requirements from a school to be less than 1,000 feet?

If the Subcommittee desires to make adjustments to the local land use regulations a motion to initiate an RCA request for a Development Code Amendment would need to be taken to the City Council.

- Attachments:
1. Zoning Use Table - Districts
 2. Zoning Use Table - Subdistricts
 3. 1,000 foot buffer from public, private or parochial schools
 4. 1,000 foot buffer from parks
 5. 1,000 foot buffer from schools & parks

ATTACHMENT 1

15.305.020 Zoning use table - Use Districts.

Newberg Development Code – Zoning Use Table

#	Use	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
420	COMMERCIAL SALES AND RENTALS																			
	Medical marijuana dispensary							P(35)	P(35)											
600	MISCELLANEOUS USES																			
	Medical Marijuana Processor										P	P	P	P						
	Medical Marijuana Grow Site	P(36)	P(36)	P(36)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
	Recreational Marijuana Processor	X	X	X	X	X	X	C(38)	X	X	P(37)	P(37)	P(37)	P(37)	X	X	X	X	X	
	Recreational Marijuana Producer (Indoor)	X	X	X	X	X	X	X	X	X	P	P	P	P	X	X	X	X	X	
	Recreational Marijuana Producer (Outdoor)	X	X	X	X	X	X	X	X	X	C	C	C	C	X	X	X	X	X	
	<u>Recreational Marijuana Retailer</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P(38)/(39)/(40)</u>	<u>P(38)/(39)/(40)</u>	<u>P(38)/(39)/(40)</u>	<u>P(38)/(39)/(40)</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	
	<u>Recreational Marijuana Wholesaler</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C(31)/(38)</u>	<u>X</u>	<u>X</u>	<u>P(38)</u>	<u>P(38)</u>	<u>P(38)</u>	<u>P(38)</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P(38)</u>	<u>X</u>	
	<u>Recreational Marijuana Laboratories</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>P</u>	<u>X</u>	<u>X</u>	
	<u>Recreational Marijuana Research Certificate</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>X</u>	<u>P</u>	<u>X</u>	<u>X</u>	

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.
- (2) Limited to one per **lot** as a permitted **use**. More than one per **lot** allowed only through a **conditional use permit** or planned unit development, subject to density limits of NMC 15.405.010(B).
- (3) Permitted on individual **lots** created prior to November 17, 1992. Homes on individual **lots** created on or after November 17, 1992, will only be permitted through the planned unit development process.
- (4) The permitted density shall be stated on the conditional use permit.
- (5) The **dwelling units** must front onto Hancock or Second **Street**. No more than 30 percent of a single **street** frontage of a **block** may be occupied by residential **uses**. Contiguous residential **street** frontage must be less than 60 lineal feet. Density and parking standards for allowable **dwelling units** must be met.
- (6) One residence per **lot** with the addition of a tie-down or **hangar** for an airplane. At a minimum, a paved tie-down or **hangar** shall be provided on the property, or the property shall include permanent rights to a private **hangar** within the **subdivision**. See Chapter 15.336 NMC.
- (7) The homes are not subject to the development standards set forth in NMC 15.445.050 through 15.445.070.
- (8) The units must be located on the same **lots** as another **use** permitted or conditionally permitted in the C-3 zone and may not occupy the first floor storefront area (the portion of the **building** closest to the primary **street**). There shall be no density limitation. **Private parking areas** or garages are not required for **dwelling units** located within **buildings** in existence prior to and including June 30, 1999. Parking shall be provided for all new **dwelling units** within any **building** constructed after June 30, 1999, in **private parking areas** or garages on the basis of one **parking space** for each **dwelling unit**.
- (9) Permitted on the ground floor, one per **lot** in conjunction with any other **use** permitted or conditional **use** in the C-1 zone. On upper floors, **dwelling units** are unlimited and one **parking space** per **dwelling unit** is required.
- (10) Permitted above any permitted **use** in the C-2 zone. There shall be no density limitation. Parking shall be provided in **private parking areas** or garages on the basis of one **parking space** for each **dwelling unit**.
- (11) Must be located above ground floor commercial uses.
- (12) One residence of area not more than 40 percent of the area of the **hangar** floor, up to a maximum of 1,500 square feet, for an **airport** caretaker or security officer on each separate **parcel**.
- (13) Permitted in existing **dwelling units** only. New **dwelling units** may not be created for this **use** unless the **dwelling unit** would otherwise be allowed.
- (14) Allowed exclusively for employers or employees of businesses located within this district.
- (15) Facility over 40,000 square feet **gross floor area** requires a **conditional use permit**.
- (16) Allowed in areas designated in industrial area plans.
- (17) Limited to facilities owned or operated by a public agency.
- (18) Parking garages are a conditional **use**, and must have first floor **street** frontage of 40 feet or less for ingress or egress. First floor development must be commercial.
- (19) A **conditional use permit** is required if the facility is less than 2,000 feet from the nearest **telecommunication facility**.
- (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.
- (22) Retail sales of goods on site not allowed.
- (23) Limited to secondhand stores.
- (24) Store size is limited to 2,000 square feet gross floor area.
- (25) Store size is limited to 5,000 square feet gross floor area.
- (26) **Use** must demonstrate that it is compatible with **airport** operations.
- (27) Limited to service stations.
- (28) Limited to card lock fueling only. Retail services are limited to self-vending services.
- (29) Permitted provided the **structure** is designed for easy conversion to industrial **use**, including not having fixed seating.
- (30) Limited to 10,000 square feet maximum floor area.
- (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.

(34) Limited to expansion or change of existing heavy manufacturing uses.

(35) Shall not be located at the same address as a state-registered marijuana grow site, or within 1,000 feet of the real property comprising a public park, a public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a). Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school or a private or parochial elementary or secondary school to the closest point of the premises of a dispensary. The premises consist of the dispensary building, or the portion of the building used for a dispensary. Shall not be located within 1,000 feet of another medical marijuana dispensary. Operating hours are limited to the hours between 9:00 a.m. and 8:00 p.m.

(36) Allows up to 12 mature plants; indoor operations only.

(37) Indoor use only.

(38) The use is not allowed within 1,000 feet of the real property comprising a public park, a public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a). Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school or a private or parochial elementary or secondary school to the closest point of the premises of a recreational processor, wholesaler or retailer.

(39) 1,000 foot separation between retailer to retailer premises and 1,000 foot separation between retailer to dispensary premises.

(40) Operating hours limited to the hours between 9:00 a.m. and 8:00 p.m.

1 Code reviser's note: Section 25 of Ordinance 2763 provides:

SECTION 25: Grace period for previously permitted or conditional uses. Where an **applicant** demonstrates that a particular **use** was a permitted or conditional **use** on a specific property immediately prior to adoption of this ordinance, but that the **use** is no longer either a permitted or conditional **use** on that property due to this ordinance, the **applicant** may establish the **use** as either a permitted or conditional **use**, as provided in the prior **code**, provided the **use** is legally commenced prior to January 1, 2018.

ATTACHMENT 2

15.305.030 Zoning use table - Use Subdistricts.

600	MISCELLANEOUS USES	R-1/PD	R-1/0.1	R-1/0.4	R-1/6.6	R-1/SP	R-2/PD	R-2/SP	SD/LDR	SD/MMR	R-3/PD	RP/SP	RP/LU	AO	ARO	C-1/SP	C-2/LU	C-2/PD	C-2/SP	C-3/LU	SD/V	SD/NC	SD/H	CC	CF/RF	RF	IO	M-1/SP	SD/E	FHO	II	AIO	H	SC	BI	
	Medical marijuana dispensary																																			
	Medical Marijuana Processor																											P	P							
	Medical Marijuana Grow Site	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
	Recreational Marijuana Processor	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	X	X	X	X	X	X	X
	Recreational Marijuana Producer (Indoor)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	P	X	P	X	X	X	X	X
	Recreational Marijuana Producer (Outdoor)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	C	C	X	C	X	X	X	X	X
	<u>Recreational Marijuana Retailer</u>	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P(1)/(2)/(3)	X	X	X	X	X	X	X	X	X	X	X									
	<u>Recreational Marijuana Wholesaler</u>	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P(1)	P(1)	X	P(1)	X	X	X	X	X
	<u>Recreational Marijuana Laboratories</u>	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	P	P	P	P	P	P	P	P	P	X	X	X	P	P	X	P	P	X	X	X
	<u>Recreational Marijuana Research Certificate</u>	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	P	P	P	P	P	P	P	P	X	X	P	P	P	X	P	P	X	X	X	

Key:

P: Permitted use

S: Special use – Use requires a special use permit

C: Conditional use – Requires a conditional use permit

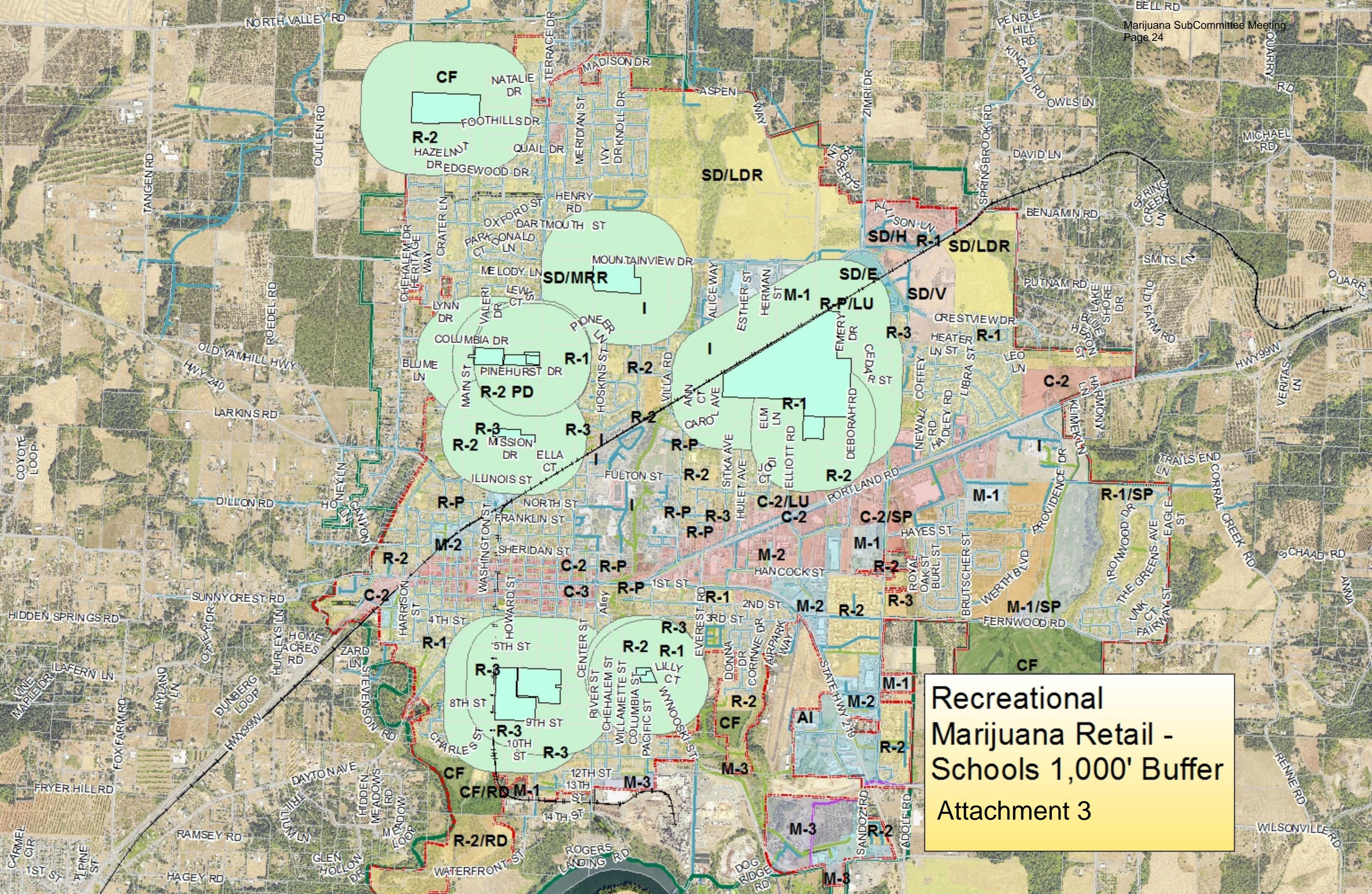
X: Prohibited use

(#): See notes for limitations

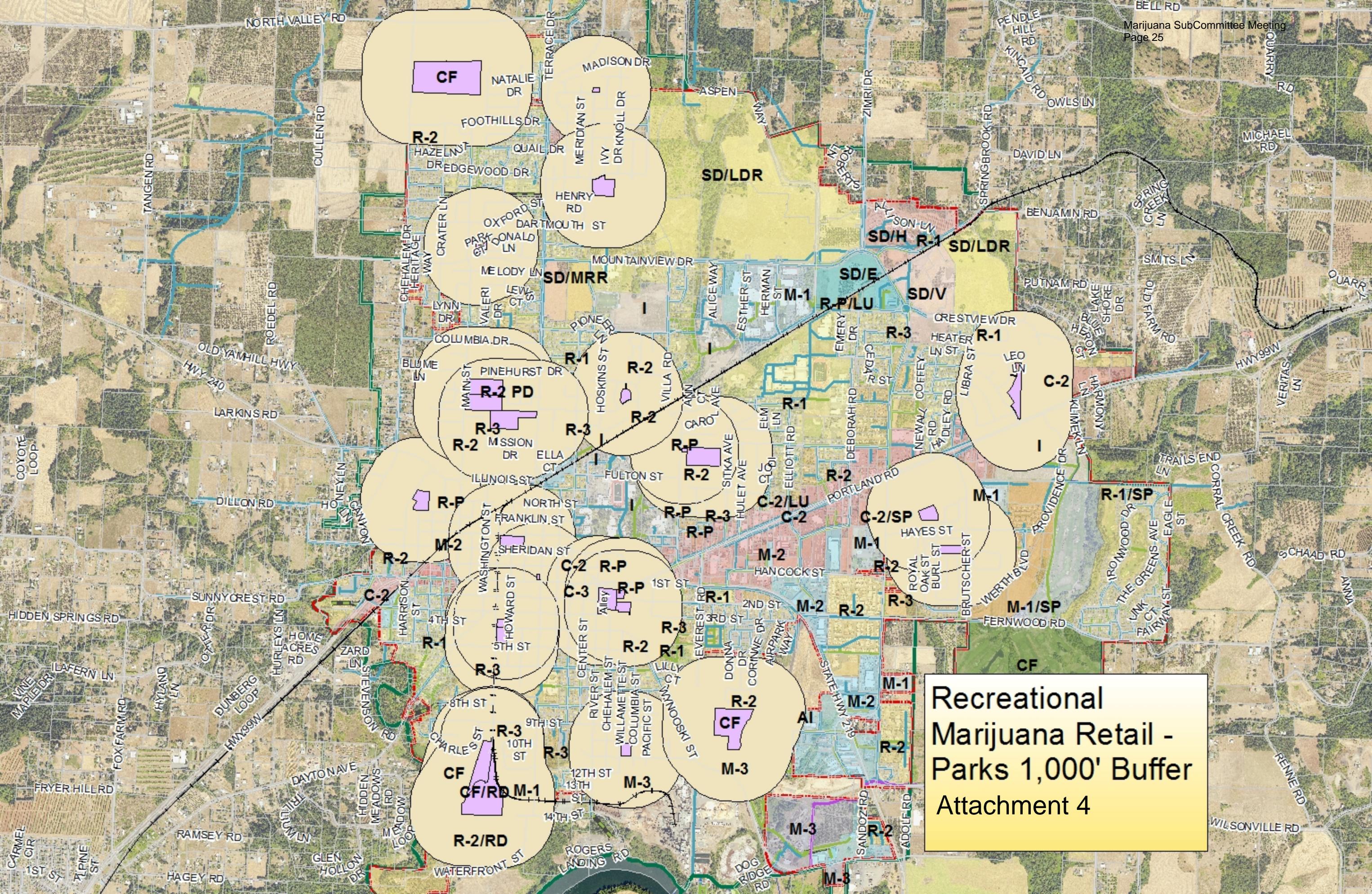
(1) The use is not allowed within 1,000 feet of the real property comprising a public park, a public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a). Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school or a private or parochial elementary or secondary school to the closest point of the premises of a recreational retailer or wholesaler.

(2) 1,000 foot separation between retailer to retailer premises and 1,000 foot separation between retailer to dispensary premises.

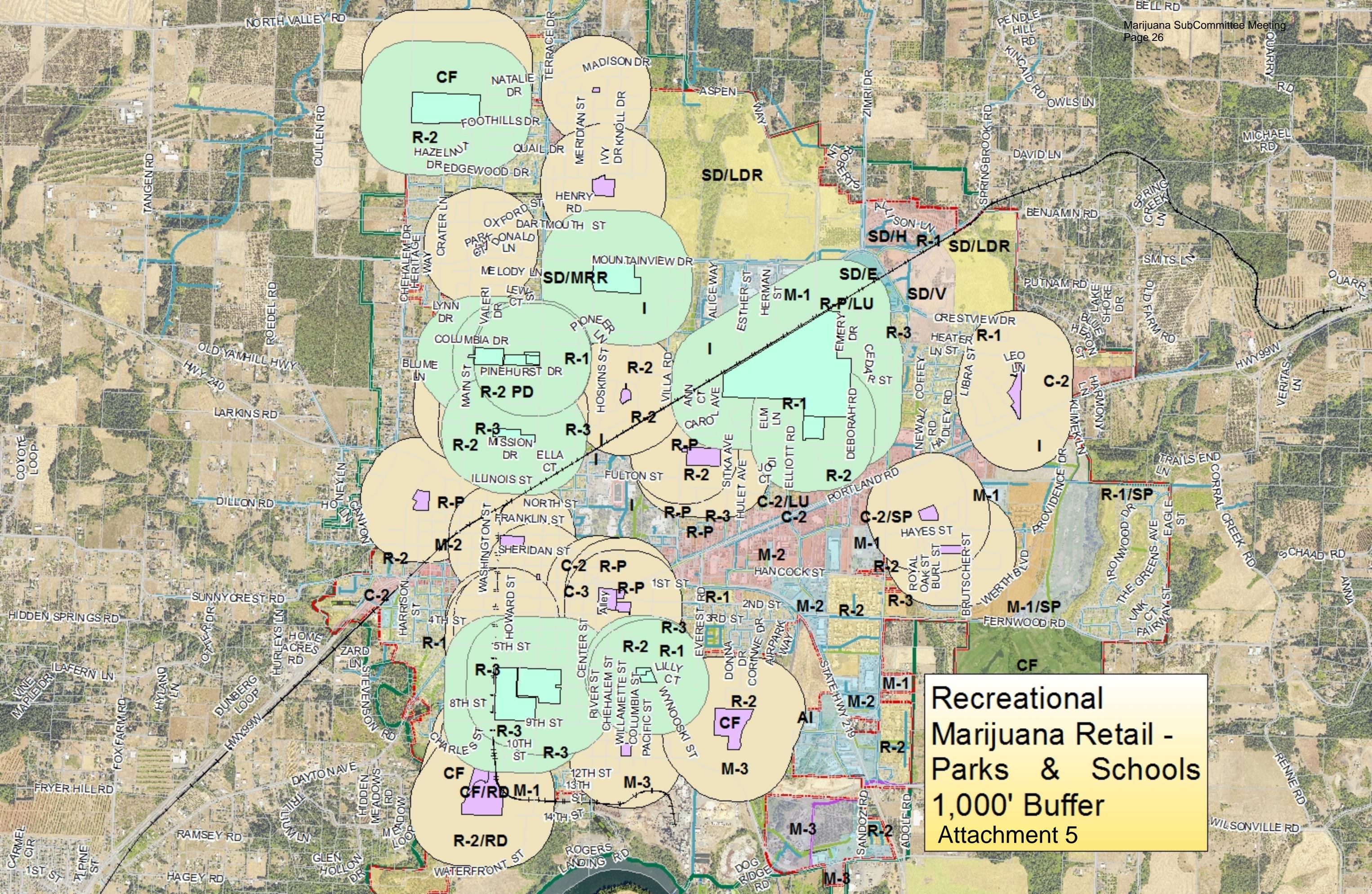
(3) Operating hours limited to the hours between 9:00 a.m. and 8:00 p.m.



Recreational
Marijuana Retail -
Schools 1,000' Buffer
Attachment 3



Recreational
Marijuana Retail -
Parks 1,000' Buffer
Attachment 4



Recreational
Marijuana Retail -
Parks & Schools
1,000' Buffer
Attachment 5