



**PLANNING COMMISSION AGENDA
March 12, 2015 7:00 PM
NEWBERG PUBLIC SAFETY BUILDING
401 EAST THIRD STREET**

I. CALL MEETING TO ORDER

II. ROLL CALL

III. PUBLIC COMMENTS (5-minute maximum per person – for items not on the agenda)

IV. CONSENT CALENDAR (items are considered routine and are not discussed unless requested by the commissioners)

1. Minutes from the 9/11/14, 12/12/14, 1/8/15, and 2/12/15 meetings

V. LEGISLATIVE PUBLIC HEARINGS (complete registration form to give testimony - 5 minute maximum per person, unless otherwise set by majority motion of the Planning Commission)

1. **Development Code Amendment regarding medical marijuana dispensaries**

The proposal would:

- Add medical marijuana dispensaries (MMD) as a commercial sales use, allowed in C-2 and C-3 zones (Newberg's main commercial zones).
- MMD would not be allowed in other commercial zones or industrial zones.
- Establish a 1000-foot buffer around schools and parks. MMD would not be allowed within 1000 feet of a park or a public or private elementary, secondary or career school.
- Operating hours: MMD would be limited to operating between 9 AM and 8 PM.

File no.: DCA-15-001 Resolution no.: 2015-306

VI. ITEMS FROM STAFF

1. Update on Council items
2. Other reports, letters or correspondence – SEI form
3. Next Planning Commission meeting: April 9, 2015

VII. ITEMS FROM COMMISSIONERS

VIII. ADJOURNMENT

FOR QUESTIONS PLEASE STOP BY, OR CALL 503-537-1240, PLANNING & BUILDING DEPT. – P.O. BOX 970 – 414 E. FIRST STREET

ACCOMMODATION OF PHYSICAL IMPAIRMENTS: *In order to accommodate persons with physical impairments, please notify the City Recorder's Office of any special physical or language accommodations you may need as far in advance of the meeting as possible as and no later than 48 business hours prior to the meeting. To request these arrangements, please contact the City Recorder at (503) 537-1283. For TTY services please dial 711.*

**NEWBERG
PLANNING COMMISSION MINUTES
SEPTEMBER 11, 2014 7:00 PM**

Chair Art Smith called the meeting to order at 7:00 PM. Members present included: Chair Art Smith, Jason Dale, Gary Bliss, Allyn Edwards, Matt Fortner, Philip Smith, Cathy Stuhr, Mayor Andrews, ex-officio and Luis Saavedra, Student Commissioner.

Staff Present included: Interim Building and Planning Director Steve Olson, Associate Planner Jessica Pelz, and Nicole Tannler, Minutes Recorder

There was a brief update on staff items including that the Planning Department applied for a TGM grant through the Oregon Department of Transportation. The City received confirmation of its Certified Local Government status, which allows it to apply for historic preservation grants.

The commissioners went on a tour to Deskins Commons for the duration of the meeting.

Deskins Commons is an apartment complex that was recently completed by the Housing Authority of Yamhill County (HAYC). It is built around a historic house and was designed to preserve many of the large trees on the site. The planning commission has been involved in the project for several years; the PC recommended approval of a zone change from R-1 (low density residential) to R-3 (high density residential) for the site to allow multifamily development and increase the supply of affordable housing. The PC also reviewed the design review for the apartments because the existing house is a Newberg historic landmark.

The meeting adjourned at 8:47 PM.

Approved by the Newberg Planning Commission this ____ day of _____, 2015.

Sue Ryan, City Recorder
for
Minutes Recorder
Nicole Tannler

Planning Commission Chair

**NEWBERG PLANNING COMMISSION MINUTES
DECEMBER 12, 2014 7:00 PM**

Chair Art Smith called the meeting to order at 7:00 p.m.

Members Present:	Art Smith, Chair	Philip Smith	Gary Bliss
	Cathy Stuhr	Jason Dale	Allyn Edwards
	Mayor Andrews, ex-officio	Luis Saavedra, Student Commissioner	

Members Absent: Matt Fortner (excused)

Staff Present:	Steve Olson, Interim Planning & Building Director	David Beam, Associate Planner
	Nicole Tannler, Minutes Recorder	Brad Allen, Code Compliance Officer

Others Present: Robert Soppe

CONSENT CALENDAR: Minutes from the November 13, 2014 meeting

<p>MOTION: Stuhr/Dale approving the November 13, 2014 Planning Commission minutes. Motion carried (6 Yes/0 No/1 Absent [Fortner])</p>
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LEGISLATIVE PUBLIC HEARINGS

Development Code Amendment regarding temporary and portable signs was continued from the November 13th meeting.

Chair Art Smith introduced the legislative hearing and called for any conflicts of interest or abstentions; none were declared.

The proposal:

- Adds a new section for a temporary sign permit program that will allow additional temporary and portable signs with a coordinated appearance in the C-2, C3, and Institutional zones.
 - Adds new language to address the use of pennants, streamers, and inflatable objects.
 - Adds new language to clarify the definition of a flag display and flag use on holidays.
- File no.: DCA-14-001 Resolution no.: 2014-305

Associate Planner David Beam presented the staff report. Interim Building and Planning Director Steve Olson said that one of the issues that came up is how quickly the Code Compliance officer could respond, which is 1 to 2 days. Commissioner Edwards stated the committee wants consistency.

Chair Art Smith opened public testimony.

Robert Soppe stated code compliance response is business days not weekend days, which could cause a problem. He said consistency seems to be an enforcement problem. There was discussion and consensus about putting umbrellas under the awning regulations.

Commissioner Phillip Smith stated this regulation says you cannot affix signs to any utility poles. Code Compliance Officer Brad Allen said there are sign citations that can be handed out for around \$100, but individuals have not been cited to date. He has removed several hundred signs during the past year. There was discussion on educating the community about the regulations. There was discussion about holidays and which to include.

There was discussion on Mr. Soppe's recommendations including sign permits for properties especially where there are multiple tenants, sign sizes, some of the wording, and when signs can be put up.

<p>MOTION: Art Smith/Bliss moved to continue the hearing for the Newberg Development Code regarding the use of temporary and portable signs to January 8, 2014. Motion carried (6 Yes/0 No/1 Absent [Fortner])</p>

ITEMS FROM STAFF

IBPD Olson reported the Planning Department was able to close out a grant for rental rehabilitation loans.

The meeting adjourned at 9:52PM.

Approved by the Newberg Planning Commission this ____ day of _____, 2015.

**Sue Ryan, City Recorder
for Minutes Recorder
Nicole Tannler**

Planning Commission Chair

**NEWBERG
PLANNING COMMISSION MINUTES
JANUARY 8, 2015, 7:00 PM**

Chair Gary Bliss called the meeting to order at 7:00 p.m. Mayor Bob Andrews conducted the oaths of office for Commissioners Cathy Stuhr and Philip Smith.

ROLL CALL

Members Present:	Cathy Stuhr	Philip Smith	Matt Fortner
	Gary Bliss	Jason Dale	Allyn Edwards
	Luis Saavedra, Student Commissioner		

Staff Present: Steve Olson, Interim Building and Planning Director
Jacque Betz, City Manager
Sue Ryan, City Recorder
Brad Allen, Code Compliance Officer

Also Present: Mayor Bob Andrews, ex-officio

Commissioner Art Smith was excused.

ELECTIONS: Commissioner Philip Smith moved to elect Gary Bliss as Chair and Allyn Edwards as Vice-Chair for 2015. Commissioner Stuhr seconded the motion and passed 6-0.

CONSENT CALENDAR: Commissioner Smith moved to adopt the meeting minutes for June 12, June 19, and July 10, 2014. Commissioner Stuhr seconded the motion and passed 6-0.

DEVELOPMENT CODE AMENDMENT: Discussion on this item was continued from the December 11, 2014 meeting. Steve Olson, Interim Building and Planning Director, explained the information that was in the Commission packets. An email was received, and public testimony had been closed at the last meeting. In order to accept the email, the testimony needed to be reopened.

Commissioner Stuhr moved to reopen the public testimony. Commissioner Phil Smith seconded the motion and passed 6-0.

The Commission read the email and allowed testimony from those in the audience.

Robert Soppe suggested changes regarding flags on Page 16 “or on any festival day designated by the Newberg City Council.” On page 18 for signs in the public right-of-way, to add at the end of B1 “the sign must also conform to 15.410.060 if it is within the clear vision zone.” Rather than say the sign owner must remove the sign, he suggested “the sign owner must have the sign removed” in the public right of way, adding to B6, time restrictions, “in addition, signs must not be present between the hours of 2 a.m. and 5 a.m.” For B7, there should be written permission from the property owner or his designee and the form could be attached to the sign. Regarding Page 19, prohibiting signs in the right-of-way outside of C3 and C4 would be difficult to enforce. He suggested restricting the hours they could be displayed and allowing the abutting property owner to confiscate the signs if written permission had not been granted.

There was discussion regarding Mr. Soppe’s proposed changes.

MOTION: Commissioner Phillip Stuhr moved to accept Robert Soppe’s suggested language and to table the issue for staff to incorporate the language into the Code amendments for Commission to review at their next meeting. Commissioner Edwards seconded the motion.

There was discussion regarding signs on sidewalks and adding that they be out of the natural flow of traffic. There was further discussion regarding temporary signs for events and possible impacts of the Code language on local business owners. The motion passed 6-0.

Chair Bliss closed the hearing at 7:40 p.m.

ITEMS FROM STAFF: IBPD Olson updated the Commission on Council items, the revolving housing loan fund, the UGB mediation process had begun, and future meeting items. City Manager Jacque Betz gave an update on the Community Development Director recruitment.

Chair Bliss adjourned the meeting at 7:48 p.m.

Approved by the Newberg Planning Commission this ____ day of _____, 2015.

Sue Ryan, City Recorder

Planning Commission Chair

**NEWBERG
PLANNING COMMISSION MINUTES
FEBRUARY 12, 2015, 7:00 PM**

Chair Gary Bliss called the meeting to order at 7:00 p.m.

ROLL CALL

Members Present:	Cathy Stuhr	Philip Smith	Matt Fortner
	Gary Bliss	Jason Dale	Art Smith
	Luis Saavedra, Student Commissioner		

Staff Present: Steve Olson, Interim Building and Planning Director
Jacque Betz, City Manager
Sue Ryan, City Recorder

Also Present: Mayor Bob Andrews, ex-officio

Commissioner Allyn Edwards was excused.

DEVELOPMENT CODE AMENDMENT: Discussion on this item was continued from the January 8, 2015 meeting.

Interim Building and Planning Director Steve Olson gave a summary of the changes made at the last meeting including changes to flag display, umbrella signage, portable signs, sign permit program, and signs in the C3 and C4 zones. He gave options for signs in the public right-of-way that were not in the C3 and C4 zones. Enforcement would be done by City employees.

Janis Schroeder, downtown business owner, had one of her signs removed overnight by code enforcement. She could not physically bring her sign in at night. She felt her sign was in compliance, and thought a Newberg Graphic newspaper stand sign that was chained to a pole nearby was not. She had gotten permission from Newberg Graphic to put the sign next to their stand, and that sign had been removed. She asked the reason the signs needed to be taken in.

Chair Bliss explained the Code had not been enforced previously, and these changes would bring things back into control and make the City look better. There was discussion on the procedure for removing signs and possibly adding language regarding notifying people before they were removed.

City Manager Jacque Betz said it was a safety issue and liability to have signs out at night in the public right-of-way. She would follow up with the City Attorney and Code Compliance Officer on the issue and to give people a warning. She also thought more public outreach and education needed to be done.

Robert Soppe, Newberg citizen, said not many people were aware of the prohibition of signs in the public right-of-way that were not in the C3 and C4 zones. He thought if the Code was enforced, there would be a serious negative reaction from citizens. He suggested these signs follow the same rules as those in the C3 and C4 zones except the hours they could not be displayed would be 10 p.m. to 6 a.m. Sunday through Wednesday and no sign could be displayed for more than four consecutive days. Two signs per frontage would be allowed and the owner of the property abutting the right-of-way had the authority to confiscate any sign for which written permission was not obtained. He thought if the signs were not allowed, the Code needed to be enforced. There was discussion regarding Mr. Soppe's suggestions.

IBPD Olson read an emailed testimony from Christine Kirk, All People Yoga business owner. She said her signs had been confiscated by code enforcement. She wanted more flexibility on the hours the signs could be out and would like to put her signs out on First Street for more visibility. There was a discussion on what was meant by more flexibility as proposed by Ms. Kirk.

Chair Bliss closed the public hearing.

There was discussion on the previous subcommittee's work and the main intent was to make the Code easier, more understandable, business friendly and enforceable.

Commissioner Phillip Smith suggested for odd circumstances that the business meet with the Planning Director and Code Enforcement Officer to make an exception rather than try to come up with regulations for every scenario.

MOTION: Commissioner Phillip Smith moved to adopt the Code amendments as written along with Robert Soppe's recommendation on Page 14. Commissioner Stuhr seconded with an amendment saying signs would be allowed for 24 hours on Thursday, Friday, and Saturday and for Page 12, C3, clarifying that every sign approved under the sign permit program must have a cohesive, coordinated appearance.

IBPD Olson suggested the language read "every sign approved under an individual sign permit must have a cohesive, coordinated appearance." There was a provision in the Municipal Code for notifying people before a sign was removed.

Commissioner Fortner suggested that for a first violation, there was written notification and after that the sign could be confiscated. Commissioner Phillip Smith suggested adding a No. 9 to Page 13 that stated, "The City's Code Enforcement Officer will issue a warning to first violators of Section 15.435.110. Confiscation of a sign will occur on a second violation." Commissioner Fortner wanted to forward that language as a friendly amendment to the motion. CM Betz thought it could be done administratively without being put in the Development Code.

There was discussion on how to proceed with the amendment and whether or not to have this forwarded to Council to direct staff to make the administrative change or to include it in the Development Code.

AMENDMENT TO THE MOTION: Commissioner Fortner moved to add the language as read by Commissioner Phillip Smith to the Development Code. The motion was seconded by Chair Bliss.

Commissioner Art Smith said the City Manager had a better way to solve the issue rather than codifying it. Commissioner Dale said it was redundant and thought it could be handled administratively. Commissioner Stuhr agreed that it should be forwarded to the City Council and handled by staff. Chair Bliss concurred and thought it would be sufficient to be done administratively.

The amendment to the motion failed 0-6 with all opposed.

The vote on the main motion passed 6-0.

ITEMS FROM STAFF:

IBPD Olson said Mr. Doug Rux had been hired as the new Community Development Director. He discussed the newly approved Enterprise Zone, citizen advisory committee for the Transportation System Plan, continuing UGB mediation, and statement of economic interest for public officials.

ITEMS FROM COMMISSIONERS: Commissioner Phillip Smith reported the UGB mediation process was happening.

Chair Bliss adjourned the meeting at 8:25 p.m.

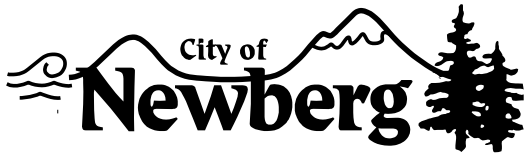
Approved by the Newberg Planning Commission this ____ day of _____, 2015.

Sue Ryan, City Recorder

Planning Commission Chair

OUTLINE FOR LEGISLATIVE PUBLIC HEARING
Newberg Planning Commission

- 1. CALL TO ORDER**
OPEN THE PUBLIC HEARING, ANNOUNCE THE PURPOSE, DISCUSS TESTIMONY PROCEDURE, AND TIME ALLOTMENTS
- 2. CALL FOR ABSTENTIONS AND OBJECTIONS TO JURISDICTION**
- 3. STAFF REPORT**
COMMISSION MAY ASK BRIEF QUESTIONS FOR CLARIFICATION
- 4. PUBLIC TESTIMONY**
5 MINUTE TIME LIMIT PER SPEAKER (15 MINUTE LIMIT FOR APPLICANT AND PRINCIPAL OPPONENT). SPEAKER GOES TO WITNESS TABLE, STATES NAME & PRESENTS TESTIMONY. COMMISSION MAY ASK QUESTIONS OF SPEAKERS.
 - A. APPLICANT(S) (IF ANY)
 - B. OTHER PROPONENTS
 - C. OPPONENTS AND UNDECIDED
 - D. STAFF READS WRITTEN CORRESPONDENCE (TIME LIMIT APPLIES)
 - E. APPLICANT (IF ANY) REBUTTAL
- 5. CLOSE OF PUBLIC TESTIMONY PORTION OF HEARING**
- 6. FINAL COMMENTS FROM STAFF AND RECOMMENDATION**
- 7. PLANNING COMMISSION DELIBERATION**
- 8. ACTION BY THE PLANNING COMMISSION**
 - A. RESOLUTION – Usually requires passage of resolution.
 - B. VOTE – Vote is done by roll call.
 - C. COMBINATION – Can be combined with other commission action; separate vote on each action is required.



Community Development Department

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PLANNING COMMISSION STAFF REPORT MEDICAL MARIJUANA DISPENSARIES - DEVELOPMENT CODE AMENDMENT

HEARING DATE: March 12, 2015

FILE NO: DCA-15-001

APPLICANT: Initiated by Newberg City Council on February 2, 2015

REQUEST: Amend the Newberg Development Code to add medical marijuana dispensaries as allowed uses in some Commercial zoning districts, not allow them in other zoning districts, establish buffers around schools and parks where dispensaries would not be allowed, and establish operating hours.

ATTACHMENTS:

Resolution 2015-306 with

Exhibit "A": Proposed Development Code Text Amendment

Exhibit "B": Findings

1. Maps of 1000-foot buffers
2. Public Comments/Correspondence Received
3. City Council Resolution 2015-3177
4. Senate Bill 1531
5. Final Rules on Medical Marijuana Dispensaries

A. **SUMMARY:** The proposed Development Code amendments do the following:

- Add medical marijuana dispensaries (MMD) as a commercial sales use, allowed in C-2 and C-3 zones (Newberg's main commercial zones).
- MMD would not be allowed in other commercial zones or industrial zones.
- Establish a 1000-foot buffer around schools and parks. MMD would not be allowed within 1000 feet of a park or a public or private elementary, secondary or career school.
- Operating hours: MMD would be limited to operating between 9 AM and 8 PM.

B. **BACKGROUND:**

State law allows medical marijuana dispensaries (MMD) in commercial, industrial, mixed use, or agricultural zones. MMD are not allowed:

- At the same address as a state-registered medical marijuana grow site
- Within 1000 feet of a public or private elementary, secondary or career school
- Within 1000 feet of another MMD

On March 19, 2014, Senate Bill (SB) 1531 was signed into law. SB 1531 gives local governments the ability to impose certain regulations and restrictions on the operation of medical marijuana dispensaries, including the ability to impose a moratorium for a period of time up until May 1, 2015. The city adopted a moratorium on April 7, 2014.

On February 2, 2015, the Newberg City Council initiated a potential amendment to Newberg's Development Code regarding medical marijuana dispensaries.

Some other cities have chosen to add restrictions to MMD, while others have not. For example, Portland and Eugene do not have additional restrictions, so MMD are allowed to operate wherever state law allows. Some cities, such as Pendleton, are excluding MMD by refusing to issue business licenses if a business does not comply with federal law. Other cities, such as LaGrande, have added a requirement for MMD to be at least 1000 feet from uses such as parks.

The following summary of other jurisdictions was excerpted from a City of Tigard report:

Washington County

- Limited to hours between 8:00am and 10:00pm.
- Allowed in specified commercial and industrial districts, with square footage limited to 3,000 square feet within the Industrial (IND), General Commercial (GC), and Rural Commercial (R-COM) Land Use Districts.
- Minimum 2,000 feet between dispensaries.
- Minimum 1,500 feet from any light rail platform.
- Entrances and off-street parking areas must be well lit and not visually obscured from public view.

City of Salem

- Limited to hours between 10:00am and 8:00pm.
- Cannot be located within:
 - Central Business Zoning District.
 - Within a residence or mixed-use property that includes a residence.
 - Within 500 feet of a public park or public playground.
 - Within 100 feet of a residentially zoned property unless the location abuts a major arterial or parkway.
 - Within 100 feet of a certified child care facility.
- Drive-through windows prohibited.
- All odors must be contained to premises.

City of Beaverton:

- Limited to hours between 7:00am and 10:00pm.
- Limited to three zones: GC (General Commercial), CS (Community Service), and CC (Corridor Commercial).

City of Ashland

- Limited to hours between 9:00am and 7:00pm.
- Limited to properties adjacent to a boulevard, and prohibited within the Downtown Design Standards Zone.
- Design standards
 - Must be located within a permanent building.
 - Drive-through windows prohibited.

- Security bars and grates prohibited.
- Establishes off-site odor standards.

City of McMinnville

- Limited to hours between 10am and 7pm.
- Minimum 1,000 foot buffer from a preschool, public library, aquatic center, and community center.

City of Albany

- Minimum 300 foot distance buffer from any property zoned residential, mixed-use, Office Professional, or Neighborhood Commercial.
- Restrictions do not apply to property zoned Industrial Park, Light Industrial, or Heavy Industrial.

C. PROCESS: A development code amendment is a Type IV application and follows the procedures in Newberg Development Code 15.100.060. The Planning Commission will hold a legislative hearing on the application. The Commission will make a recommendation to the Newberg City Council. Following the Planning Commission’s recommendation, the Newberg City Council will hold a legislative hearing to consider the matter. Important dates related to this application are as follows:

1. 2/2/15: The Newberg City Council initiated the Development Code amendment.
2. 2/25/15: Planning staff placed notice on Newberg’s website, and posted notice in four public buildings. *The Newberg Graphic* published notice of the Planning Commission hearing.
3. 3/12/15: The Planning Commission will hold a legislative hearing to consider the application.

D. PUBLIC COMMENTS: As of the writing of this report, the city has received two written comments on the application. These comments are included in Attachment 2. If the city receives additional written comments by the comment deadline, planning staff will forward them to the Commissioners.

Doug Heuer submitted a copy of the Chehalem Valley Dance Academy’s mission statement, which indicates that they offer pre-professional training.

Lathen Gorbett submitted articles about medical marijuana dispensaries and their effect on crime, about use of marijuana by teens, and about whether dispensaries are good neighbors. He also submitted photos of existing dispensaries, and a summary of state rules for MMD. The authors of the articles generally concluded that MMD are not a magnet for crime, that legalization of marijuana in Colorado did not lead to an increase in use by teens, and that MMD are generally good neighbors and generate few complaints.

E. ANALYSIS:

1. **Use:** A MMD is similar to a pharmacy, because customers are required to have a prescription in order to purchase. Sales are indoors, and there is no on-site use by customers.
2. **Existing zones:** A pharmacy falls within the “retail sales – general” use category in Newberg’s Development Code, and would be allowed in all of Newberg’s commercial zones: C-1 (neighborhood commercial), C-2 (community commercial, along Portland Road), C-3 (downtown commercial), and C-4 (riverfront commercial). A “retail sales-general” use is not allowed in Newberg industrial zones, in order to preserve the land for industrial businesses. Many other cities have adopted restrictions on which zones MMD are allowed in.
3. **Buffer from other MMD:** State law requires a 1000 foot buffer zone from other MMD, and does not allow a MMD at the same address as a state-registered grow site.
4. **Buffer from schools:** State law also requires a 1000 foot buffer zone around elementary and secondary schools, presumably in order to minimize adverse impacts on places where minor children congregate, and minimize the diversion (illegal resale) of medical marijuana to minors. State law does not require a buffer zone around preschools or daycare facilities, presumably because children in these facilities are under adult supervision at all times and there is no concern about diversion of medical marijuana to children in these facilities.
5. **Career schools:** The buffer applies to career schools as well as regular public or private elementary or secondary schools. Chehalem Valley Dance Academy is considered a career school because, according to their website, one of their missions is to prepare students for a potential career as a professional dancer. Their students are primarily minors.
6. **Parks:** Parks in Newberg have outdoor play areas where minor children congregate, sometimes unsupervised. Some other cities have adopted buffer zones for MMD around parks.
7. **Day care:** Some cities have adopted buffers around day care uses. Staff does not propose adding buffers around daycare uses, because there are many small daycares in residential areas around the city; they have state licenses (Registered Family Child Care Homes) but do not require city permits, so they are not simple to locate. Large day care centers (Certified Child Care Centers) are fewer in number, and can be located and mapped (Attachment 2). Children in these centers are under adult supervision at all times, however, and it would be inconsistent to buffer these centers while not buffering residential day care near commercial areas. Buffering certified child care centers would also leave only a handful of properties for possible MMD. Staff proposes to follow the lead of State law, and not add buffers around day care centers.
8. **C-1 zoned sites** (neighborhood commercial) are small commercial sites surrounded by residential areas, so allowing a MMD in C-1 would essentially allow it in a residential

area. Staff proposes to limit MMD to the C-2 and C-3 zones, which are Newberg's main commercial zones, and not allow MMD in C-1.

9. **Crime:** The public comments that were submitted included articles that concluded that MMD were not magnets for crime. One article pointed out that MMD are currently only able to conduct business in cash, however, which could potentially increase the risk of crime for dispensaries and customers. The Police Chief suggested adding limits on operating hours so dispensaries were not open late at night. Many other cities have adopted operating hour limits. Staff has proposed limiting operating hours to between 9 AM and 8 PM.

Staff therefore proposes the following code amendments for MMD in Newberg:

- Add MMD as a commercial sales use, allowed in C-2 and C-3 (Newberg's main commercial zones).
- MMD would not be allowed in other commercial zones or industrial zones.
- MMD would not be allowed at the same address as a state-registered grow facility.
- In addition to the 1000-foot buffer around schools, add the same buffer requirement for parks. MMD would not be allowed within 1000 feet of a park or a public or private elementary, secondary or career school.
- Operating hours: MMD would be limited to operating between 9 AM and 8 PM.

F. PRELIMINARY STAFF RECOMMENDATION: The preliminary staff recommendation is made in the absence of public hearing testimony, and may be modified subsequent to the close of the public hearing. At this writing, staff recommends the following motion:

Move to adopt Planning Commission Resolution 2015-306, which recommends that the City Council adopt the requested amendments.



PLANNING COMMISSION RESOLUTION 2015-306

**A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL AMEND THE
NEWBERG DEVELOPMENT CODE REGARDING MEDICAL MARIJUANA
DISPENSARIES**

RECITALS

1. On March 19, 2014, Senate Bill 1531 was signed into law. SB 1531 gives local governments the ability to impose certain regulations and restrictions on the operation of medical marijuana dispensaries, including the ability to impose a moratorium for a period of time up until May 1, 2015. Newberg enacted such a moratorium on April 7, 2014
2. The Newberg City Council initiated a potential amendment to Newberg's Development Code regarding medical marijuana dispensaries on February 2, 2015.
3. After proper notice, the Newberg Planning Commission held a hearing on March 12, 2015 to consider the amendment. The Commission considered testimony and deliberated.

The Newberg Planning Commission resolves as follows:

1. The Commission finds that adding regulations for medical marijuana dispensaries would be in the best interests of the city and recommends that the City Council adopt the amendments to the Newberg Development Code as shown in Exhibit "A". Exhibit "A" is hereby adopted and by this reference incorporated.
2. The findings shown in Exhibit "B" are hereby adopted. Exhibit "B" is by this reference incorporated.

Adopted by the Newberg Planning Commission this 12th day of March, 2015.

ATTEST:

Planning Commission Chair

Planning Commission Secretary

List of Exhibits:

- Exhibit "A": Development Code Text Amendments
- Exhibit "B": Findings

**Exhibit “A” to Planning Commission Resolution 2015-306
Development Code Amendments –File DCA-15-001
Medical Marijuana Dispensaries**

Section 1. The Newberg Development Code 15.05.030 shall be amended as follows:

**Note: Existing text is shown in regular font.
Added text is shown in double-underline
Deleted text is shown in ~~strikethrough~~.**

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:

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

“Park category” means a category of uses under Chapter 15.303 NMC that provide areas for outdoor recreation, whether passive or active. Parks may be privately or publicly operated, but no admission fee is charged.

“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.

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

15.303.342 Park category.

A. Characteristics. Park uses provide areas for outdoor recreation, whether passive or active. Parks may be privately or publicly operated, but no admission fee is charged.

B. Accessory Uses. Accessory uses may include pavilions, club houses, maintenance facilities, concessions, caretaker’s quarters, and parking.

C. Examples. Playgrounds, community sports fields, public squares, picnic pavilions.

D. Exclusions. Commercial recreational uses are a separate category. Open spaces without access or with only trails or observation areas are classified as open space. Recreational facilities accessory to a school, church, or public community center use, regardless of whether admission is charged, are part of the primary use. Golf courses are a separate use.

Section 2. Newberg Development Code Section 15.305.020 shall be amended as follows:

15.305.020 Zoning use table

15.305.010 Classification of uses.

The zoning use table under NMC 15.305.020 identifies the land uses that are allowed in the various zoning districts. The specific land use categories are described in Chapter 15.303 NMC. The table identifies each use as one of the following:

- P Permitted Use. The use is a permitted use within the zone. Note that the use still may require design review, building permits, or other approval in order to operate.
- C Conditional Use. A conditional use permit is required for the use. See Chapter 15.225 NMC.
- S Special Use. The use is subject to specific standards as identified within this code. The applicable section is included in the last column of the table.
- (#) A note indicates specific limits on the use. These notes are listed at the bottom of the table.
- X Prohibited Use. The use is specifically prohibited.

If none of the codes above are indicated, then the use is not permitted within the zone. [Ord. 2763 § 1 (Exh. A § 6), 9-16-13.]

15.305.020 Zoning use table.

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																				
421	Retail sales – General						P (20)	P (15) (21)	P			P (23)									
422	Retail sales – Bulk outdoor							P	C			P									
423	Retail sales – Convenience						P (20)	P (21)	P			P (24)			P(25)						
Def.	Temporary merchant							S	S (21)												NMC 5.15.050 et seq.
	<u>Medical marijuana dispensary</u>							P (35)	P (35)												

Notes.

(35) Shall not be located at the same address as a state-registered marijuana grow site, or within 1,000 feet of the real property comprising a public park, a public or private primary, elementary, secondary or career school. Shall not be located within 1,000 feet of another medical marijuana dispensary. Distance is measured from property line to property line. Operating hours are limited to the hours between 9:00 AM and 8 PM.

Exhibit “B” to Planning Commission Resolution 2015-306
Findings –File DCA-15-001
Medical Marijuana Dispensaries

I. Statewide Planning Goals - relevant goals

Goal 1, Citizen Involvement, requires the provision of opportunities for citizens to be involved in all phases of the planning process.

Finding: The City Council initiated the potential development code amendment at a public meeting on February 2, 2015. The Planning Commission, after proper notice, held a public hearing on March 12, 2015. The City Council will consider the recommendation of the Planning Commission at a future public hearing date, and decide whether or not to adopt the development code amendment. The development code amendment process provides opportunity for public comments throughout the planning process.

Goal 2, Land Use Planning, requires the development of a process and policy framework that acts as a basis for all land use decisions.

Finding: The Medical Marijuana Dispensary proposal is supportive of this goal because it was developed following city procedures for legislative action.

II. Newberg Comprehensive Plan - relevant policies

A. CITIZEN INVOLVEMENT GOAL: To maintain a Citizen Involvement Program that offers citizens the opportunity for involvement in all phases of the planning process.

Finding: The City Council initiated the potential development code amendment at a public meeting on February 2, 2015. The Planning Commission, after proper notice, held a public hearing on March 12, 2015. The City Council will consider the recommendation of the Planning Commission at a future public hearing date, and decide whether or not to adopt the development code amendment. The development code amendment process provides opportunity for public comments throughout the planning process.

B. LAND USE PLANNING GOAL: To maintain an on-going land use planning program to implement statewide and local goals. The program shall be consistent with natural and cultural resources and needs.

Finding: The Medical Marijuana Dispensary proposal is supportive of this goal because it was developed following city procedures for legislative action.

H. THE ECONOMY GOAL: To develop a diverse and stable economic base.

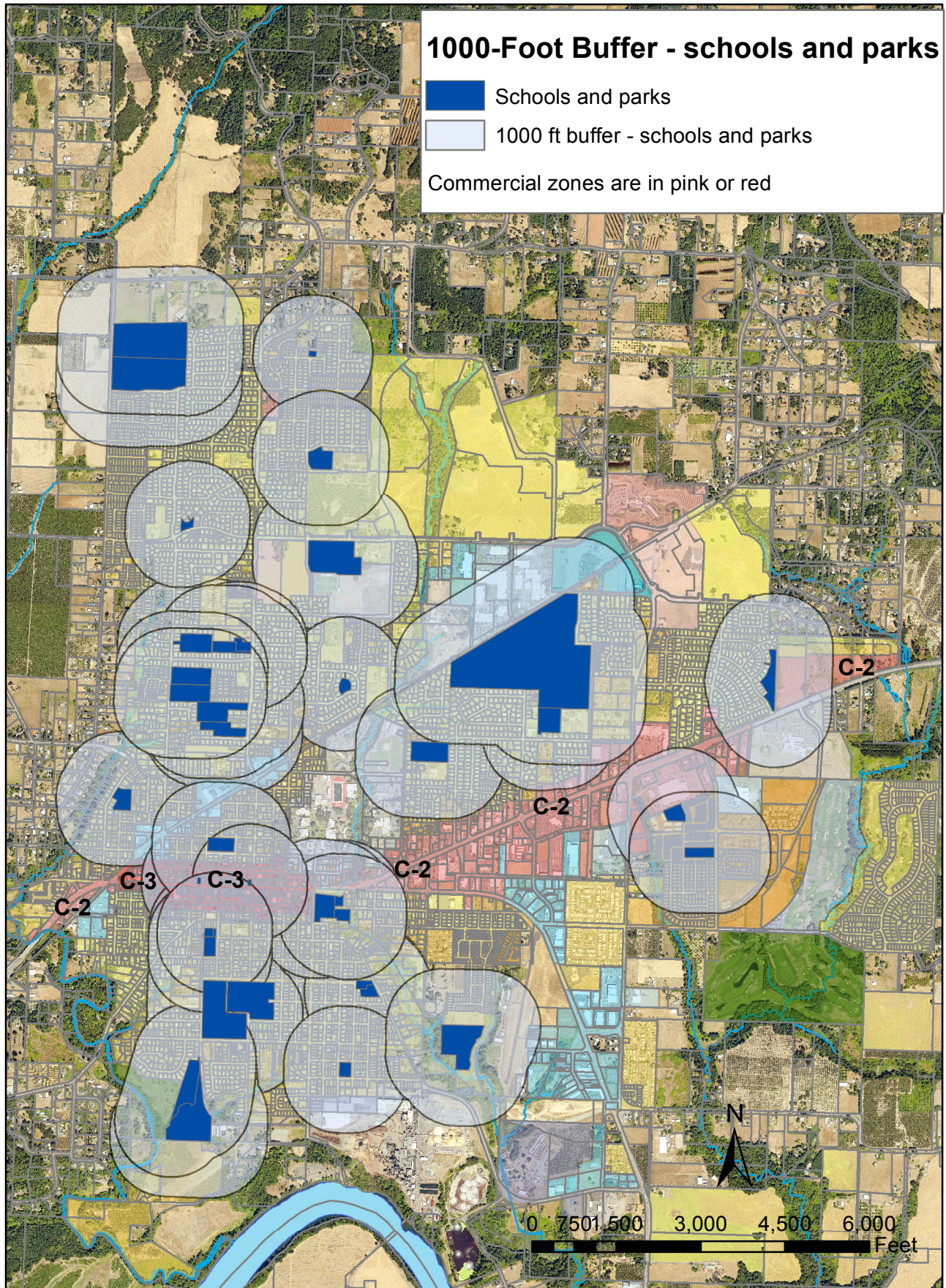
1. General Policies

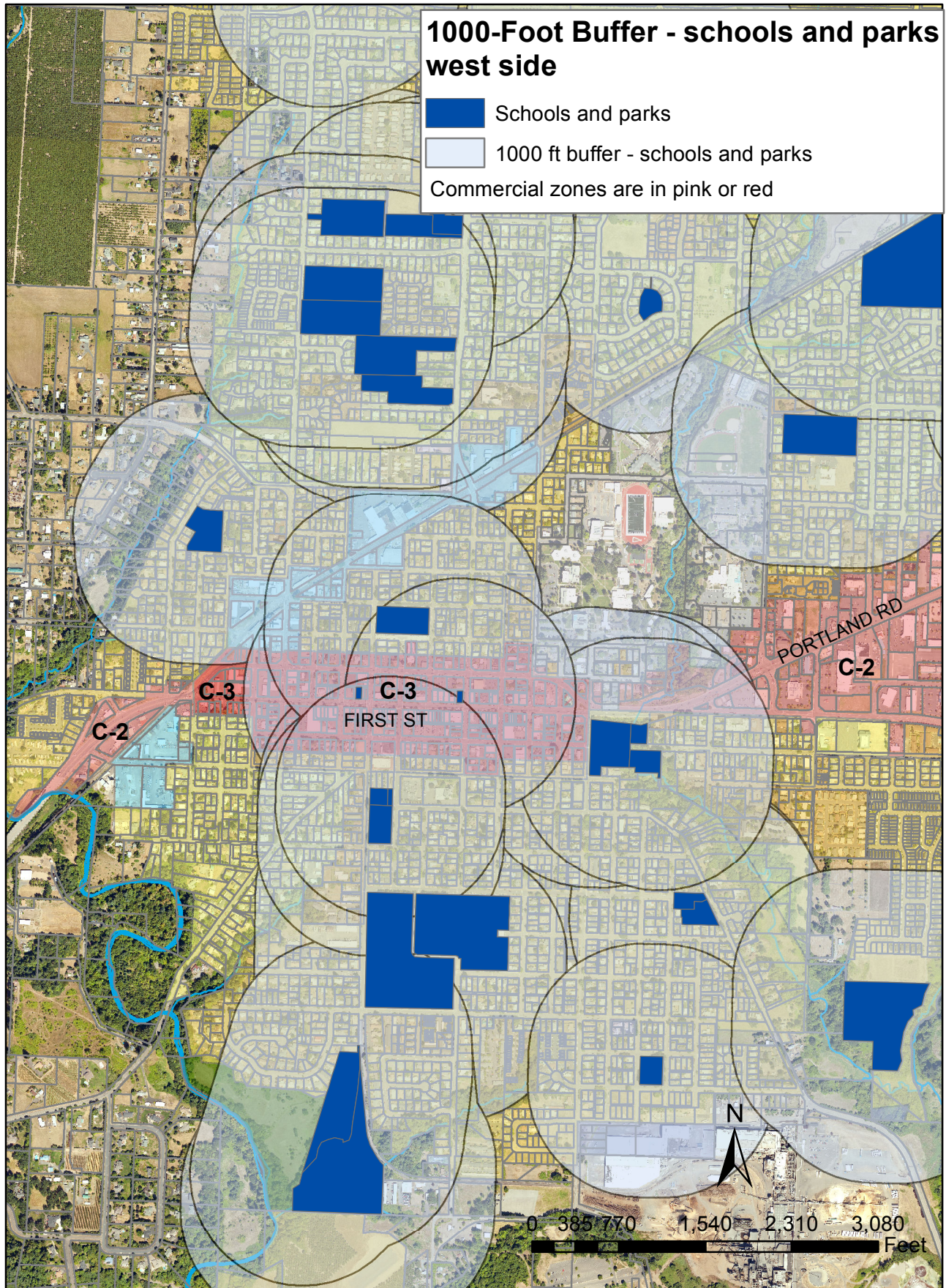
c. The City will encourage the creation of a diversified employment base, the strengthening of trade centers and the attraction of both capital and labor intensive enterprises.

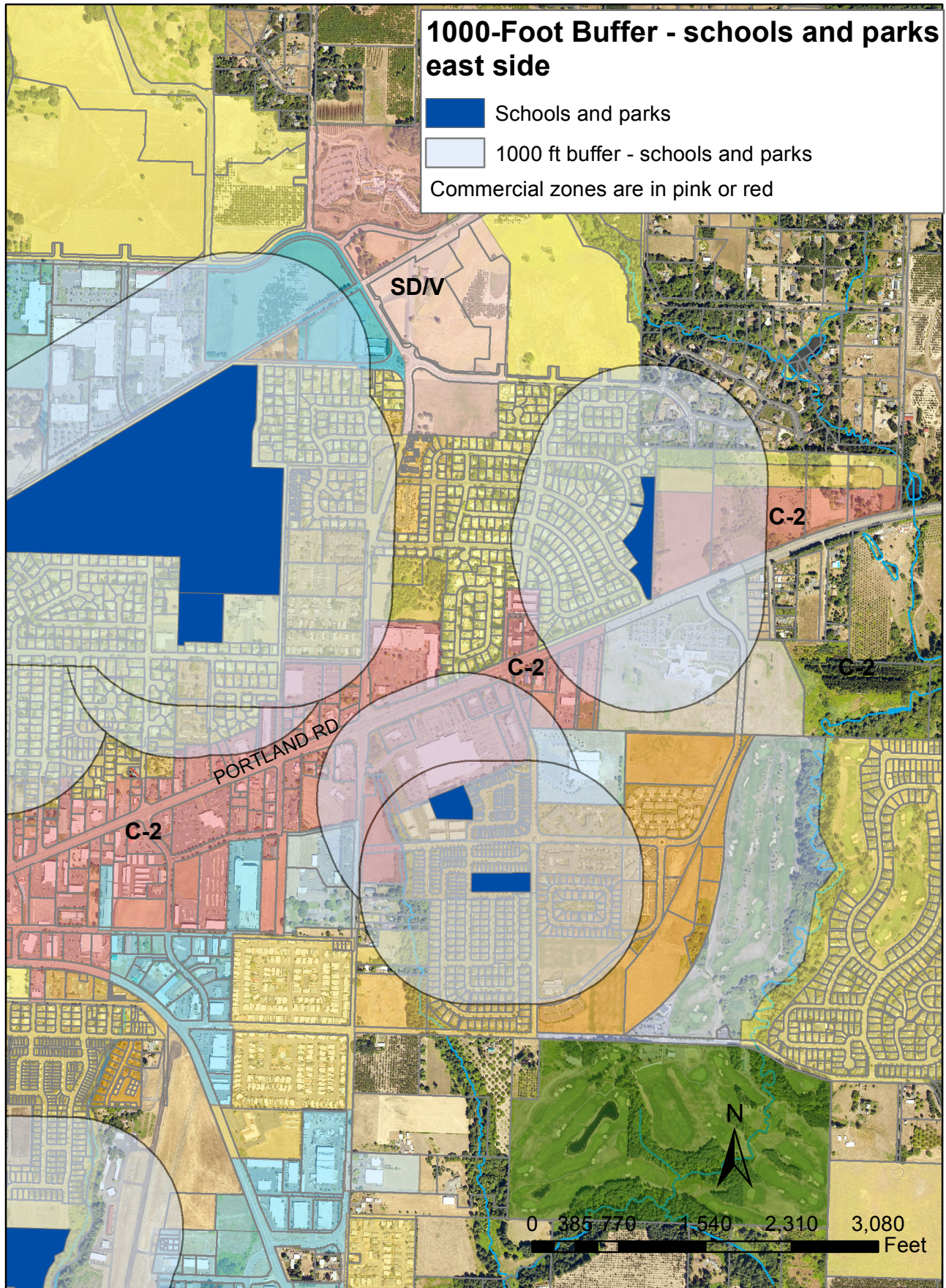
g. The City shall encourage business and industry to locate within the Newberg City limits.

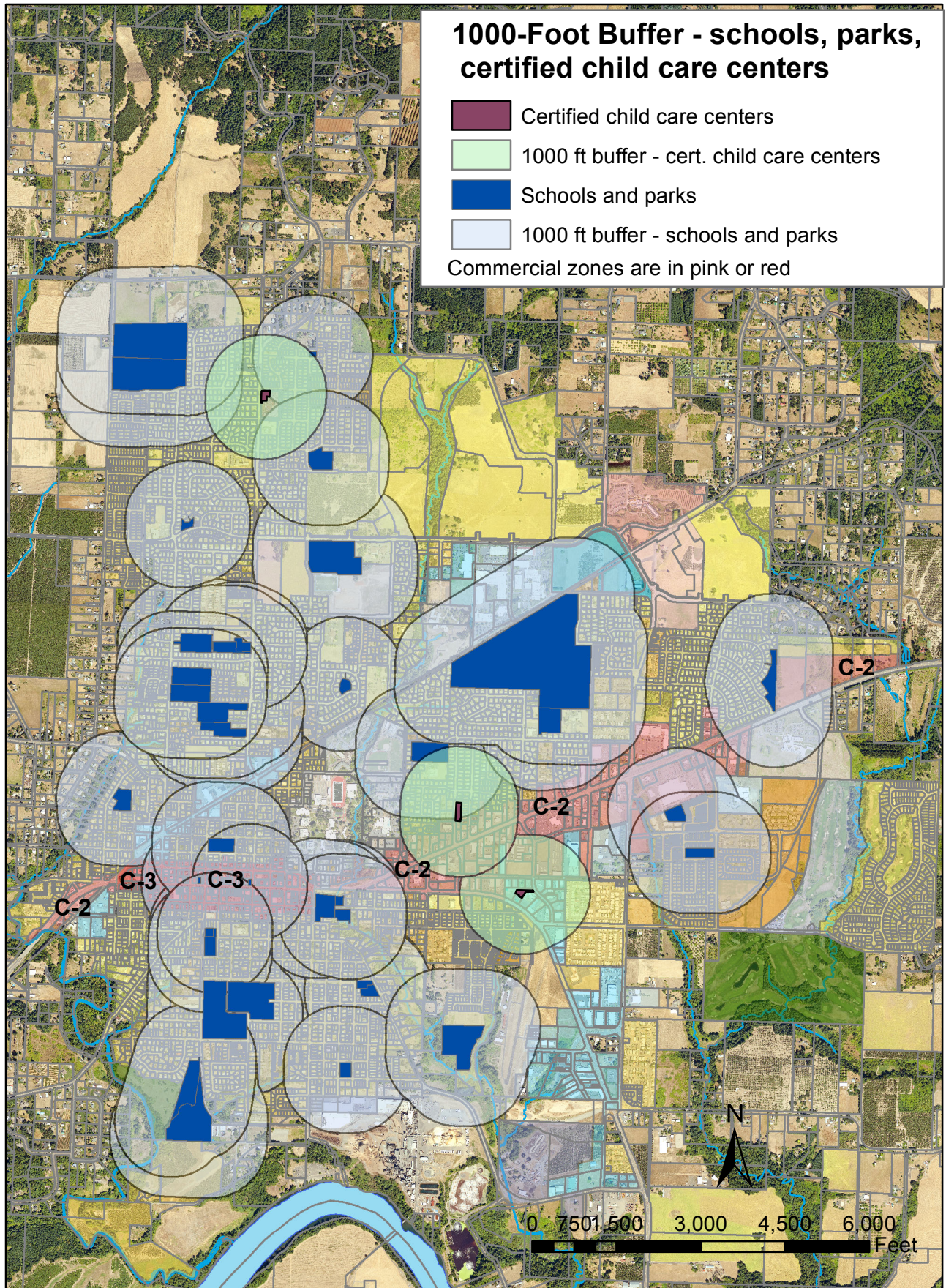
Finding: The city encourages new businesses to develop within the city. A medical marijuana dispensary is a legal business under State law, and there is probably local demand for medical marijuana dispensaries. Allowing medical marijuana dispensaries in C-2 and C-3 commercial areas, with appropriate buffer zones from schools and parks, is consistent with this Comprehensive Plan goal.

III. Conclusion: The proposed development code amendments meet the applicable requirements of the Statewide Planning Goals, and the Newberg Comprehensive Plan, and should be approved.











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Mission Statement

Chehalem Valley Dance Academy is committed to providing superior, positive instruction in a safe, properly equipped dance facility. We are dedicated to providing a recreational program for the less serious dancer as well as an intense training ground for the pre-professional dancer. We are determined to provide a haven of positive support for all our dancers. While our hourly rates remain competitive, we are determined to continue to offer a dramatically lower family rate than the average studio so that serious dancers and large families can afford more classes. We are focused on providing the supportive and respectful classroom environment necessary for the artistic growth of every dancer and the further development of every child's self-confidence. We are committed to bringing the best and most qualified instructors to our studio and then keeping them here by maintaining a supportive and appreciative atmosphere. We are resolved that every dancer will feel special. Dance is a gift for everyone to share and we are committed to making everyone feel welcome and encouraged. We welcome diversity in our studio, believing that different genders, ages, nationalities, races, religious beliefs, and special needs enrich and enhance our program. We are deeply invested in providing a place for adults to enjoy and pursue dance. The benefits of dance are endless and extraordinary and we are honored to offer a program so special.



About Us

We offer classes in Ballet, Tap, Jazz and Hip Hop for ages 3 and up. Our programs focus on developing life skills as well as dance skills for the recreational or pre-professional dancer. We employ the most qualified instructors that share the same pillars of leadership and expertise in their field. At Chehalem Valley Dance Academy, we believe that through dance training, every person can realize their true potential. Our session runs from September 15th through May 20th and culminates in our Annual Showcase. Dancers will have one costume per class to purchase that will be theirs to keep following the showcase. As a family of CVDA, you are invited to participate in Parent-Watch Weeks, Bring-A-Friend Weeks, The Nutcracker, First Friday Art Walk activities, and many more events at the studio and out in the community. Our staff believes that dance skills are life skills. Joining CVDA will grow every person's self-confidence, discipline, respect, perseverance, leadership, active listening skills, and ability to set goals and achieve them.

Studios

Our facility features 3 studios with raised, professional dance floors. The studio is cleaned daily and sanitized weekly.

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- ▶ Summer 2015

Steve Olson

From: lathenpdxhomes@gmail.com on behalf of Lathen Gorbett
<broker@LathenPDXhomes.com>
Sent: Tuesday, February 03, 2015 9:29 AM
Subject: Oregon Resource Group - Medical Marijuana
Attachments: Crime and Dispensaries.pdf; MMJ Good Neighbor articles.pdf; rules and regulations summary (1).pdf; Retail Look of Dispensaries.pdf; Teenagers Smoke Less Pot.pdf

Newberg Leadership,

I would like to thank you all for being responsive and open to last night's brief discussion about the medical marijuana regulation in the city of Newberg. As I mentioned, I have attached a packet on Rules and Regulations for opening a medical marijuana dispensary in Oregon. I hope this is a helpful and informative tool for the planning process.

I have also attached some statistics that we have gathered around the impact of dispensaries coming in to different neighborhoods, a copy of a typical Letter of Intent for leasing property, an article on the impacts of teenagers use and pdf with images of some local dispensaries.

I will follow up with more information that I find relevant as this discussion moves forward.

Please feel free to utilize the Oregon Resource Group as a resource for information around the issue of the cannabis industry.

Thank you,

Lathen Gorbett
Licensed Oregon Broker / Oregon Resource Group
503.891.9311



Marijuana Policy Project
 P.O. Box 77492
 Washington, DC 20013
 p: (202) 462-5747 • f: (202) 232-0442
 info@mpp.org • www.mpp.org

“We change laws.”

Medical Marijuana Dispensaries and Their Effect on Crime

Opponents of medical marijuana sometimes speculate that medical marijuana dispensaries will lead to increased crime rates in surrounding areas.¹ These dispensaries, they claim, will attract thieves and robbers to the facilities and breed secondary crimes in surrounding areas. Such claims have prompted empirical and statistical analyses by researchers and law enforcement agencies. In what should not come as a surprise, given the robust security at most medical marijuana facilities, these studies have routinely shown that, contrary to these concerns, dispensaries are not magnets for crime. Instead, these studies suggest that dispensaries are no more likely to attract crime than any other business, and in many cases, by bringing new business and economic activity to previously abandoned or run-down retail spaces, dispensaries actually contribute to a reduction in crime.

While the data is reassuring, one public safety challenge for dispensaries and adult use marijuana stores has been that many have been forced to operate as cash-only businesses because of banks' concern about federal legal issues. However, with new guidance that was issued by the federal government in February 2014, it is expected that more small banks and credit unions will open accounts for marijuana businesses.

What follows is a brief summary of anecdotal and scientific evidence, including law enforcement data analyses and academic research on medical marijuana dispensaries and their effect on crime. For more information on dispensaries, medical use of marijuana, state laws, and other issues related to medical marijuana, please visit mpp.org/medical.

2009 Los Angeles Police Department survey — In response to debate over medical marijuana regulations by the Los Angeles City Council, and claims from medical marijuana opponents that dispensaries were magnets for crime, Los Angeles Police Chief Charlie Beck asked his department to produce a report comparing the robbery rates of L.A. banks and medical marijuana dispensaries. The report indicated that there were 71 robbery reports filed with the LAPD at the city's 350 banks. Despite there being far more medical marijuana dispensaries — more than 800 at the time according to Beck — there were fewer robbery reports filed at dispensaries: just 47.

When asked about the report, and claims that dispensaries are crime magnets, Beck said, “I have tried to verify that because, of course, that is the mantra. It really doesn't bear out. ... Banks are more likely to get robbed than medical marijuana dispensaries.”²

2009 Denver Police Department survey — An analysis of robbery and burglary rates at medical marijuana dispensaries conducted by the Denver Police Department at the request of the Denver City Council found that the robbery and burglary rates at dispensaries were lower than

¹ “Across the state, we're seeing an increase in crime related to dispensaries,” said Ernie Martinez, a Denver police detective who is president of the Colorado Drug Investigators Association. “Medical marijuana dispensaries' effect on crime unclear,” *The Denver Post*, January 24, 2011.

http://www.denverpost.com/news/marijuana/ci_17178820#ixzz1ngbvMOII.

² “LAPD Chief: Pot clinics not plagued by crime,” *Los Angeles Daily News*, January 17, 2010.
http://www.dailynews.com/news/ci_14206441.

area banks and liquor stores and on par with those of pharmacies. Specifically, the report found a 16.8 percent burglary and robbery rate for dispensaries, equal to that of pharmacies. That's lower than the 19.7 percent rate for liquor stores and the 33.7 percent rate for banks, the analysis found.³

2010 Denver Police Department analysis — In late 2010, the Denver Police Department looked at crime rates in areas in and around dispensaries. The analysis showed that through the first nine months of 2010, crime was down 8.2% relative to the same period in 2009. The decrease was comparable to the city's overall drop in crime of 8.8%.⁴ *The Denver Post* completed a similar analysis and found that crime rates in some areas with the highest concentration of dispensaries saw bigger decreases in crime than neighborhoods with no dispensaries.⁵

2010 Colorado Springs Police Department analysis — An analysis by the Colorado Springs Police Department found that robbery and burglary rates at area dispensaries were on par with those of other businesses. Specifically, the department's data indicated that there were 41 criminal incidents reported at the city's 175 medical marijuana businesses in the 18-month period ending August 31, 2010. Meanwhile, over that same period, there were 797 robberies and 4,825 burglaries at other city businesses. These findings led the department's spokesman, Sgt. Darrin Abbink, to comment, "I don't think the data really supports [dispensaries] are more likely to be targeted at this point."⁶

October 2011 UCLA study, "Exploring the Ecological Link Between Crime and Medical Marijuana Dispensaries," — Researchers from UCLA, funded by the National Institute on Drug Abuse, used data from 95 census tracts in Sacramento to analyze two types of crime (violent and property) in areas with varying concentrations of dispensaries. What they found was that while factors traditionally understood to lead to increased crime — for example, large percentages of land zoned for commercial rather than residential use, a high percentage of one-person households, the presence of highway ramps, and a higher percentage of the population being ages 15-24 — were positively associated with crime in those areas, "the density of medical marijuana dispensaries was not associated with violent or property crime rates." In their conclusion, the researchers said, "[t]hese results suggest that the density of [medical marijuana dispensaries] may not be associated with increased crime rates or that measures dispensaries take to reduce crime (i.e., doormen, video cameras) may increase guardianship, such that it deters possible motivated offenders."⁷

Specifically, the study applied the "routine activity theory" of crime, which suggests that crime is more likely when three criteria are met: (1) a motivated offender, (2) a suitable target, as defined by factors like value, visibility, and access, and (3) a lack of guardianship such as low residency or poor security. The authors hypothesized that the lack of a relationship between dispensaries and crime could be attributable to either of two possible conclusions: either medical marijuana dispensaries were no more valuable a target than other businesses in the area — a possibility supported by the law enforcement surveys in L.A. and Denver discussed above — or heightened security at dispensaries was sufficient to deter criminal activity in the area.

³ "Analysis: Denver pot shops' robbery rate lower than banks," *The Denver Post*, January 27, 2010. http://www.denverpost.com/ci_14275637.

⁴ See note 1, *supra*.

⁵ *Id.*

⁶ "Marijuana shops not magnets for crime, police say," *Fort Collins Gazette*, September 14, 2010. <http://www.gazette.com/articles/wall-104598-marijuana-brassfield.html>.

⁷ <http://www.uclamedicalmarijuanaresearch.com/node/10>.

June 2011 Regent University study — Researcher Maura Scherrer of Regent University looked at the perception of crime, and medical marijuana dispensaries' impact on crime, among residents of Denver neighborhoods with varying socio-economic profiles. In so doing, she found that most crimes, including robbery, vandalism, and disorderly conduct increased in Denver from 2008 to 2009. However, in areas within 1,000 feet of a dispensary, rates were down for most types of crime, including burglary, larceny, and a 37.5% reduction in disorderly conduct citations. In her conclusion the author notes, "it appears that crime around the medical marijuana centers is considerably lower than citywide crime rates; a much different depiction than originally perceived."⁸

February 2014 *Urban Geography* — Researchers from the University of South Florida, the University of Colorado, and the New York City Criminal Justice Agency set out to determine whether medical marijuana dispensaries in Denver could be considered locally undesirable land uses (LULUs), land uses that people do not want to live close to, but which provide services to the community.⁹ The researchers studied 275 medical marijuana centers in 75 Denver neighborhoods and concluded that:

"[w]hile public officials, and especially law enforcement, clearly warn residents about the negative effects of these centers on the communities in which they are situated, there is little evidence that residents are listening, as these centers do not appear to have any impact on the urban landscape — and therefore on the health of the communities in which they are located."¹⁰

The study did find that medical marijuana centers are more likely to be opened in areas that have higher crime rates, but that is not unusual because crime follows retail concentrations. "In short, medical marijuana facilities appear to ... be more similar to drugstores and coffee houses than they are to LULUs."¹¹

Los Angeles crime trends — Los Angeles has frequently been cited as the city with the most dispensaries and the least regulation of those dispensaries. It is also the most populous city in the state that has the oldest and the broadest medical marijuana law, where any medical condition qualifies. While L.A. voters do prefer some regulation and control — and they approved a ballot measure to create a regulatory system in May 2013 — the city that has been cited as having more dispensaries than Starbucks certainly has not suffered a crime epidemic as a result of its permissive policies. On the contrary, overall crime in Los Angeles has dropped dramatically since dispensing collectives became legal in 2004. Crime rates have plummeted in the past 11 years, with decreases each of those 11 years. They are now the lowest they have been since 1949.¹²

The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006¹³ — Researchers Robert Morris, Michael TenEyck, J.C. Barnes, and Tomislav Kovandzic

⁸ Study available at <http://adr.coalliance.org/codr/fez/view/codr:983>.

⁹ Lyndsay N. Boggess, Deanna M. Pérez, Kathryn Cope, Carl Root & Paul B. Stretesky, *Urban Geography* (2014): Do medical marijuana centers behave like locally undesirable land uses? Implications for the geography of health and environmental justice, *Urban Geography*.

¹⁰ *Id.* at p. 15

¹¹ *Id.* at p.16

¹² Kathy Mather, "L.A. crime falls for 11th year; officials note historic drops," *L.A. Times*, Jan. 13, 2014.

<http://www.latimes.com/local/lanow/la-me-ln-crime-falls-20140113,0,3357277.story#axzz2vJ6f1xlX>

¹³ Morris RG, TenEyck M, Barnes JC, Kovandzic TV (2014). "The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006." *PLoS ONE* 9(3): e92816. doi: 10.1371/journal.pone.0092816

analyzed the association between the enactment of a medical marijuana law and state crime rates for all Part 1 offenses — homicide, rape, robbery, assault, burglary, larceny, and auto theft — as collected by the FBI. The purpose was to help inform the debate on whether passage of medical marijuana laws leads to increased crime rates. The researchers used fixed-effects panel design to identify what, if any, effect passage of a medical marijuana law has on crime rates. This design analyzes changes individual states see in their respective crime rates over time and compares the changes to the crime rate trends among states that enacted medical marijuana laws and those that did not.

While all states experienced a reduction in Part 1 offenses during the period studied, those that had passed a medical marijuana law experienced greater reductions in those offenses than those states that had not. The researchers conclude that enactment of a medical marijuana law “is not predictive of higher crime rates and *may* be related to reductions in rates of homicide and assault.”¹⁴ They note that the most “important finding . . . is the lack of evidence of any increase in robbery or burglary, which are the type of crimes one might expect to gradually increase over time if the [medical marijuana laws lead to increased crime] theory was correct.”¹⁵

¹⁴ *Id.* at 5.

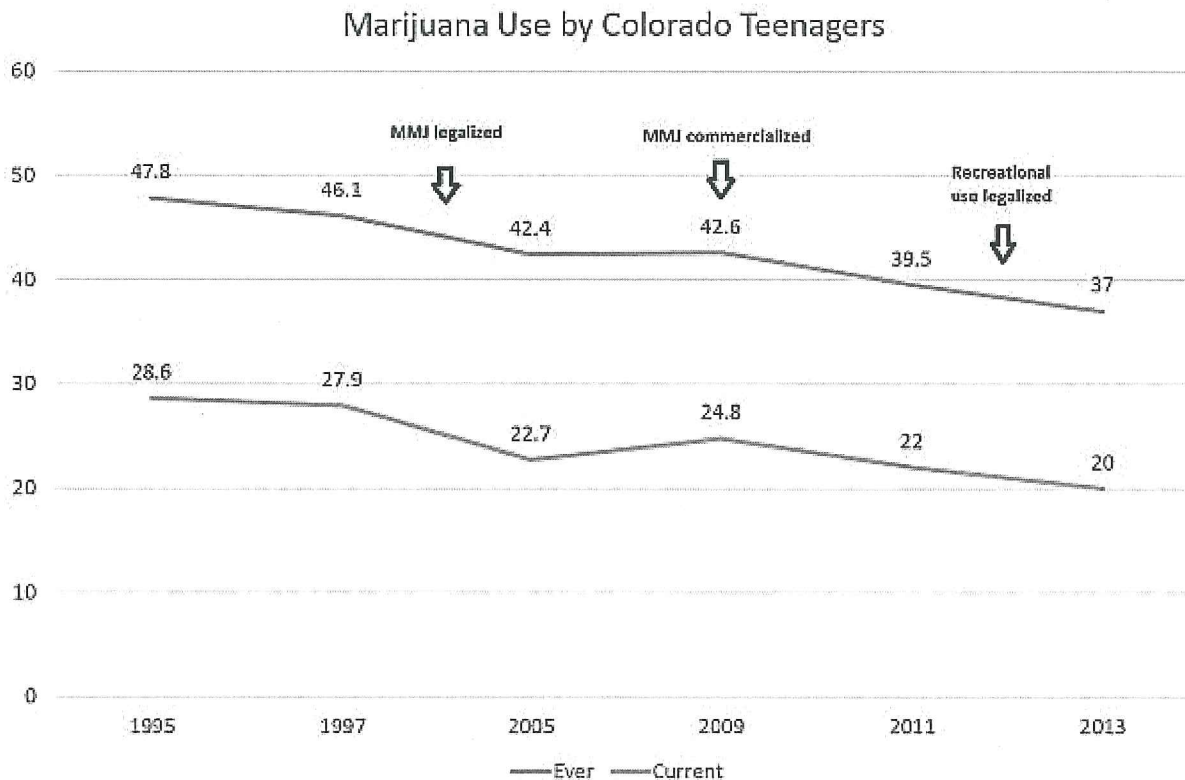
¹⁵ *Id.*

Despite Legalization, Colorado Teenagers Stubbornly Refuse to Smoke More Pot

Jacob Sullum | Aug. 8, 2014 1:41 pm

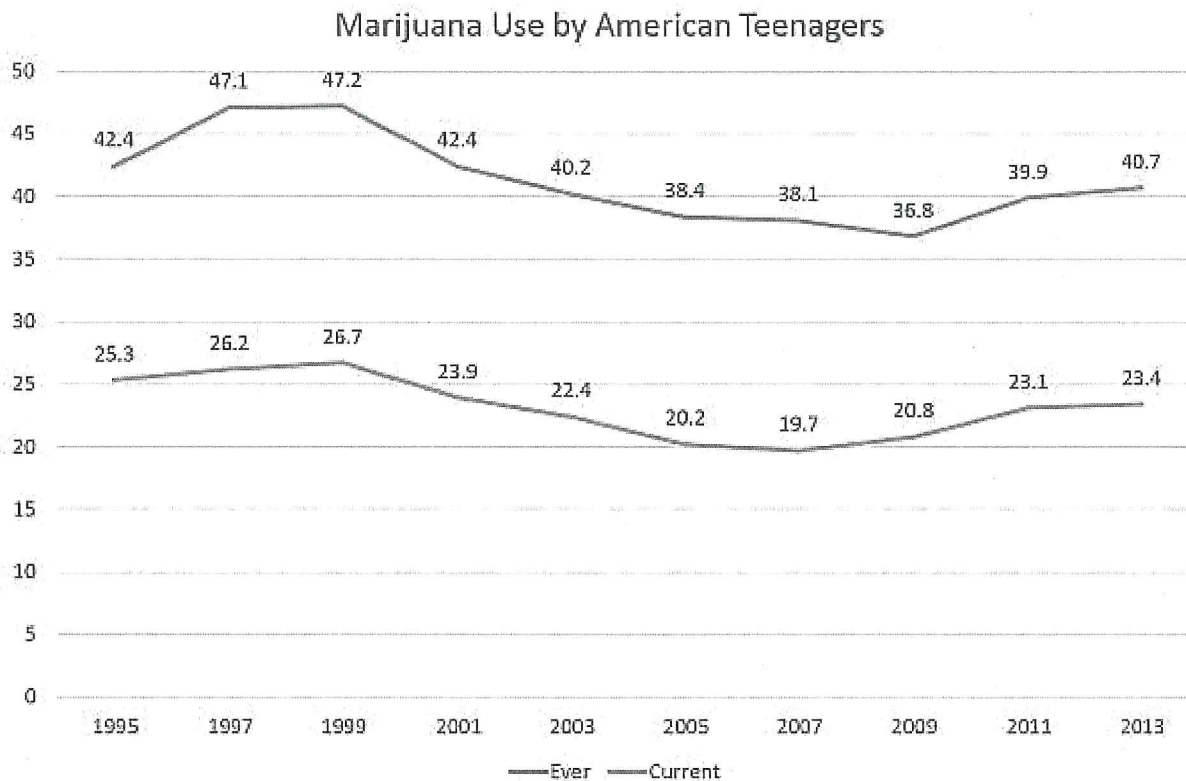
New survey data from Colorado indicate that marijuana legalization so far has not led to an increase in pot smoking by teenagers, as prohibitionists warned it would. In the 2013 Healthy Kids Colorado survey, 37 percent of high school students reported that they had ever tried marijuana, down from 39 percent in 2011. The percentage who reported using marijuana in the previous month (a.k.a. "current" use) also declined, from 22 percent in 2011 to 20 percent in 2013. The state Department of Public Health and Environment, which oversees the survey, says those decreases are not statistically significant. But they are part of a general downward trend in Colorado that has continued despite the legalization of medical marijuana in 2001, the commercialization of medical marijuana in 2009 (when the industry took off after its legal status became more secure), and the legalization of recreational use (along with home cultivation and sharing among adults) at the end of 2012:

The



Youth Risk Behavior Survey

earlier numbers come from the CDC's Youth Risk Behavior Survey, to which Colorado contributes data from its own survey. (You can find the state-specific numbers in the reports listed here.) The CDC survey is conducted every other year, but Colorado has not always participated, which is why data for 1999, 2001, 2003, and 2007 are missing. Still, this does not look like what you would expect to see if relaxing restrictions on marijuana led to more underage consumption. In fact, the downward trend during this period is clearer in Colorado than in the country as a whole:



Youth Risk Behavior Survey

Nationwide, past-month marijuana use by high school students rose between 1995 and 1999, then declined steadily until 2007, when it began a gradual rise that continued through 2013. In Colorado, by contrast, that number rose between 2005 and 2009 but has declined since then. Again, not what you would expect if making marijuana legally available to adults boosted consumption by minors. More detailed and sophisticated analyses, including data from various states with medical marijuana laws, likewise have found no evidence of such an effect.

"Once again, claims that regulating marijuana would leave Colorado in ruins have proven to be unfounded," says Mason Tvert of the Marijuana Policy Project, who was a leader of Colorado's legalization campaign. "How many times do marijuana prohibition supporters need to be proven wrong before they stop declaring our marijuana laws are increasing teen use? They were wrong when they said regulating medical marijuana would do it, and they were wrong when they doubled down and said making marijuana legal for adults would do it."

It is still possible, of course, that legal recreational sales, which began in Colorado only this year, will increase teenagers' access to marijuana (not through direct sales but through diversion from adult buyers), which might lead to an increase in consumption. Colorado officials express a somewhat different concern. According to a press release from the health department, "Health experts worry that the normalization of marijuana use in Colorado could lead more young people to try it." In other words, they worry that allowing adults to legally purchase marijuana for recreational use will encourage teenagers to take a more positive view of cannabis, which will make them more likely to use it. Call it the "permitted fruit" effect. Prohibitionists such as former drug czar Gil Kerlikowske raised the same complaint against medical marijuana laws, but their fears seem to have been misplaced. For what it's worth, the health department reports that "the percentage of students who perceived a moderate or great risk from marijuana use declined from 58 percent in 2011 to 54 percent in 2013," even as marijuana use fell.

February 13, 2014

Few Complaints About San Francisco Dispensaries

San Francisco's 24 city-licensed dispensaries generated just 10 citizen complaints last year, most of them for relatively minor issues such as double-parking.

Other complaints centered around strong cannabis odors and an illuminated sign (which the dispensary owner simply turned off), according to SF Weekly. One even involved a suspect marijuana brownie that was sent to a crime lab but came back clean.

The figure doesn't include dispensary-related crimes, and there were two relatively high-profile ones in or outside MMJ centers in 2013 – including an armed robbery.

But the relatively low number of citizen complaints shows that dispensaries aren't a public nuisance as some MMJ opponents claim, especially in areas with cannabis business regulations.

California doesn't have statewide rules on dispensaries, but San Francisco requires cannabis centers to receive city permits and meet some basic requirements. Owners, for instance, must pass a background check, submit details on their security plans and obtain certification as a food handler if they're going to make edibles.

February 7, 2014

Rec Shop Lifts Businesses in CO Mountain Town

Business owners in Carbondale, Colorado, need to thank the town's recreational marijuana shop.

A story in the Aspen Times reports that the Main Street businesses in the small mountain town have seen a spike in customers since Jan. 15, which is when the Doctor's Garden marijuana store opened for recreational business. The shop is the first recreational store to open in Colorado's Western Slope region.

The small town of 6,400 people is located between the ski town of Aspen and Interstate 70, which funnels traffic across the state.

Restaurants, coffee shops and grocery stores there have all reported unusually high numbers of customers since the shop opened. Most of the customers, businesses owners reported, are tourists in the 50-plus age group.

"What was kind of surprising was how normal the people were that were coming to Carbondale to buy marijuana," said Carol Bruno, owner of Peppino's Pizza in downtown Carbondale. "It wasn't the stoner crowd I expected, but an older, normal clientele."

The report reinforces the opinion that opening early in a recreational marijuana economy can generate substantial business. But it also shows that recreational cannabis stores can be good neighbors for traditional business owners, many of whom might be skeptical of the industry.

January is traditionally a slow time for the town. But the executive director of the Chamber of Commerce said the month has been just as busy as summertime.

Whether the business continues is yet to be seen. Aspen is expected to open its first recreational retail store within the month, and another is expected to open in nearby Glenwood Springs as well.

Medical marijuana stores impact neighborhoods in Denver no more than coffee shops, study says

February 21, 2014 | By William Breathes

A medical marijuana dispensary in the Denver area doesn't have any more impact on its neighborhood than does a coffee shop or a drugstore, according to a recent study released by the University of Colorado Denver. Not only that, but residents don't perceive a dispensary as an undesirable use of a storefront.

These findings counter the constant negative messages coming from law enforcement and anti-cannabis crusaders. And apparently, even the researchers were shocked by the results.

The CU Denver study looked at ways race, ethnicity and economic status played into the location of the centers themselves, with researchers taking the position that the 275 dispensaries they studied were largely located in lower-income areas. And while the findings showed that dispensaries are more likely to be located in areas that have higher rates of criminal activity, that's simply a matter of logistics: Crime generally occurs more often near commercial retail areas, and dispensaries are zoned as retail centers.

Paul Stretsky, a research student at the CU Denver School of Public Affairs who helped lead the study, says his team had predicted from the outset that dispensaries would change the neighborhoods surrounding them for the worse and create more crime. But that just wasn't the case, he notes. The researchers even went back through their methods to find some error that could account for the findings and found nothing.

Study: Pot Shop Security Could Reduce Crime

Posted on Mon, 02/25/2013 - 4:48pm

Social Welfare professor **Bridget Freisthler** recently led a team of authors that published an article in the *Journal of Community Psychology* as part of a five-year study funded by a grant from the National Institute of Drug Abuse.

The article, co-authored by Social Welfare student Nancy Kepple, Urban Planning student Revel Sims and Scott E. Martin of the Pacific Institute for Research and Evaluation, was titled "Evaluating Medical Marijuana Dispensary Policies: Spatial Methods for the Study of Environmental-Based Interventions." The paper examined several current "policy and land use environmental interventions" that seek to mitigate detrimental effects associated with the influx of medical marijuana dispensaries across California.

Focusing specifically on Los Angeles and Sacramento, Freisthler and her co-authors investigated the impact of dispensary regulations on the prevalence of crime and marijuana use, how types of medical marijuana users cluster within communities, and whether clustering is increased in locations with numerous dispensaries.

Preliminary data from the research indicate that certain regulatory measures -- such as security cameras, the presence of a guard, and the posting of signs requiring a prescription card -- may indeed be effective in reducing crime within the immediate vicinity of a marijuana dispensary.

Dr. Freisthler's expertise lies in the application of population-based geospatial research methods to the exploration of relationships between drug distribution systems, alcohol and drug abuse, and child abuse and neglect. She employs geographic information systems, spatial statistics and spatial econometrics to understand how social problems vary across geographic areas, identify areas in a community prone to developing social problems with an understanding of neighborhood ecologies, and examine how the location of social services may further affect such developments.

Freisthler received her Ph.D. in Social Welfare from UC Berkeley, and she is currently the principal investigator of the UCLA Medical Marijuana Research Team.

Report: Medical Marijuana Dispensaries Not Linked to Neighborhood Crime Study of California dispensaries finds no increased crime levels

By Jason Koebler Jun. 6, 2012

It's long been the argument of law enforcement and anti-medical marijuana advocates that the government-sanctioned pot dispensaries cause an uptick in crime, especially burglary and muggings. The only problem is that argument isn't necessarily true, according to a new study funded by the National Institutes of Health.

On its face, the argument makes sense—medical marijuana dispensaries feature large caches of high quality drugs, and its customers overwhelmingly walk in with a huge wad of cash and walk out with a desirable product. But the study, published in the *Journal of Studies on Alcohol and Drugs*, found that neighborhoods with medical marijuana dispensaries in Sacramento were no more likely to have crime than other neighborhoods.

The study's authors say their research may debunk a 2009 report by the California Police Chiefs Association that said marijuana dispensaries "have been tied to organized criminal gangs, foster large [marijuana growth] operations, and are often multi-million-dollar profit centers."

"Because they are repositories of valuable marijuana crops and large amounts of cash, several operators of dispensaries have been attacked and murdered by armed robbers both at their storefronts and homes, and such places have been regularly burglarized," the report continues. "Drug dealing, sales to minors, loitering, heavy vehicle and foot traffic in retail areas, increased noise, and robberies of customers just outside dispensaries are also common ancillary by-products of their operations."

Arguments such as those are common by opponents of medical marijuana legalization, which will soon be available in as many as 17 states and the District of Columbia.

"There's law enforcement and city officials debating whether these dispensaries were attracting undesirables, and there's the other side, the dispensary owners, saying maybe these concerns were unfounded," says co-author Nancy Kepple, a doctoral student at the UCLA Luskin School of Public Affairs. "But neither side had any evidence that supported either claim."

The UCLA study looked at crime rates in 95 areas of Sacramento in 2009, before the city enacted regulations on where dispensaries could be located and had fewer restrictions on what security measures dispensary operators had to meet.

"Whatever security measures were done, the owners chose to do it for themselves [in 2009]. We specifically selected this time because it was based on a free-market situation," says Kepple.

Although the researchers aren't sure why there was no uptick in crime around dispensaries, they suspect that security guards and cameras have an impact on keeping criminals out. Or, as Kepple wrote in the report, it could be that marijuana dispensaries just don't increase crime any "more than any other facility in a commercially-zoned area."

Several high-profile murders in San Francisco and Hollywood dispensaries and burglaries in San Francisco, Santa Cruz, and Colorado Springs have made dispensary-based crime national news, but those cases aren't representative of a larger trend, Kepple and her co-author, Bridget Freisthler, say.

"Because of the type of business dispensaries are, any crime there has been well-publicized, bringing more attention to the issue," Freisthler says. "Neighborhood residents get up in arms and it takes a life of its own." She says pot dispensaries appear to be no more likely to be victimized by burglars than liquor stores or other commercial spots.

Still, the authors realize there are potential holes in their study. They say they need to study crime rates in other cities and need to study crime trends over time to determine whether dispensaries have long-term impacts on neighborhood crime.

"This is really just the start, and [our findings] seem contrary to what the public debate has been saying," Kepple says. "We wanted to start thinking about the debate from a scientific standpoint."

March 31, 2014

San Francisco Votes to Shrink 'Buffer Zone' Around Schools

The city's Planning Commission recently voted to shrink the buffer zone between marijuana businesses and schools from 1,000 to 600 feet. The move could allow more businesses to open outside of the quadrant of southern and eastern San Francisco called "SoMa," where 28 businesses currently operate.

When fully implemented, the new zoning laws could allow dispensaries to open into more residential areas of the city, such as Sunset and Richmond. Advocates believe that medical marijuana patients in these areas do not have adequate access to dispensaries, and are forced to travel to SoMa for their medicine.

The rule also eliminates the ban on marijuana clubs within 1,000 feet of playgrounds and youth facilities. Whether San Francisco's adjustments spread to other major cities could impact the industry. The 1,000-foot "buffer zone" has become a regulatory standard, but some advocates believe the buffer is too restrictive in densely populated areas.

Advocates in Chicago, for example, believe the 1,000-foot buffer zone between shops and residential areas could push dispensaries out of town entirely.

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July 1, 2014

**MEDICAL MARIJUANA DISPENSARY
 RULES AND REGULATIONS SUMMARY**

I. Application Requirement

1. Facility must be at location that is properly zoned
2. Facility cannot be the same address as a registered grow site
3. Facility cannot be within 1,000 feet of the property of a public or private school
4. Facility cannot be within 1,000 feet of another facility
5. 1,000 feet is measured from property line to property line
6. Person Responsible for Facility ("PRF") must be a resident of Oregon
7. PRF must have legal authority to act on behalf of facility
8. PRF is responsible for ensuring facility complies with applicable laws and rules
9. PRF must pass criminal background check for initial application
10. PRF is accountable for ANY intentional or unintentional actions of owners, officers, managers, employees or agents of the facility
11. The Authority can notify PRF and the facility owner if the PRF no longer meets qualifications or the facility owner can notify the Authority that PRF no longer qualifies
12. Separate security procedures are required during and after business hours
 - A. Security procedures require proper storage, restricted access areas, signage, alarm system, video surveillance system, electronic documentation system
13. Testing of marijuana and immature plants is required and must be complete before transfer to a patient or caregiver
 - A. Batch testing methods must be utilized for useable marijuana and finished product
 - B. Flowers must be tested for pesticides, mold and mildew, THC and CBD
 - (1) Pesticide testing must:
 - (a) Look for chlorinated hydrocarbons, organophosphates, carbamates, and pyrethroids
 - (b) Be analyzed using valid testing methodologies
 - (c) Not be visually inspected for pesticides

July 1, 2014
Page 2

- (2) Mold and mildew testing must:
 - (a) Be analyzed using valid testing methodologies
 - (b) Not be visually inspected for mold and mildew
- (3) THC and CBD testing must:
 - (a) Use valid testing methodologies
- (4) Interpreting test results
 - (a) Useable marijuana shall be deemed positive for mold and mildew if the sample has levels that exceed the maximum acceptable counts in the Pharmacopeia, Section 1111, which is 200 colony forming units
 - (b) Useable marijuana shall be deemed positive for any pesticides with a detection of more than 0.1 parts per million
 - (c) If useable marijuana is found to screen positive for pesticides, mold or mildew, the batch must be returned
- C. Edibles, Liquids and Solid Extracts must be tested for:
 - (1) THC and CBD if the flower used to make the edible, liquid and solid extract was tested for pesticides, mold and mildew and the results were negative
 - (2) Pesticides, mold and mildew, and THC and CBD if the flower used to make the edible, liquid or solid extract was not tested
 - (3) Interpreting test results is same as flower
- D. Immature Plants
 - (1) Must be tested for pesticides, mold or mildew using macroscopic or microscopic screening by qualified personnel
- E. A PRF must ensure that all testing, except for immature plants, is done by a laboratory
 - (1) The laboratory must:
 - (a) Use valid testing methodologies
 - (b) Have a Quality System for testing of pesticides, mold and mildew that is compliant with:
 - i. 2005 International Organization for Standardization 17025 Standards, or
 - ii. 2009 National Environment Laboratory Accreditation Conference Institute TNI Standards
 - (c) Provide test results signed by an official of the laboratory who can attest to the accuracy of the results

July 1, 2014
Page 3

II. Operating Dispensary

1. Facility must display proof of registration in a prominent location inside the facility. This must be visible for those coming in to get medicine and those to transfer medicine to the facility
2. Facility MAY NOT use the Authority or the OMMP name or logo
3. Registration cannot be transferred to another location
4. PRF is responsible for the security of all marijuana, immature plants and records
5. Must have regular testing of all marijuana and immature plants before transfer to patients
6. Minors are NOT allowed in areas where there are immature plants and/or useable marijuana
7. An employee can use marijuana if:
 - A. He or she has a valid OMMP patient card
 - B. He or she must be in a closed room, alone, if he or she is smoking
8. Facility must use an Oregon Department of Agriculture approved scale
9. People allowed in facility where there are immature plants or marijuana: PRF, owner of facility, employee of facility, laboratory personnel, contractor authorized by PRF, patient, caregiver or grower, authorized employee or contractor of the Authority, and other government officials who have jurisdiction over some aspect of registered facility or otherwise have authority to be on premises
10. Must have written policy, procedures and training manual
11. Electronic record keeping is required, must be properly backed up, and must be kept for one year at a minimum
12. Labeling is required
 - A. Prior to transfer useable marijuana, a PRF must ensure a label is affixed to container in which useable marijuana is located, which includes:
 - (1) The amount of THC and CBD
 - (2) If prepackaged, the weight or volume of marijuana in metric units (i.e. grams)
 - (3) The amount of useable marijuana of a finished product in metric units
 - (4) Who performed the testing
 - B. If edible product, must have a warning label
13. Transfers to facility
 - A. Authorized Transfer Forms (ATF) are required
 - B. After immature plants or marijuana are transferred to facility it is no longer the property of the patient, unless it is returned to the patient

July 1, 2014
Page 4

- C. Prior to accepting the transfer, the PRF must ensure:
 - (1) That there is a valid ATF on file
 - (2) That the person bringing the medicine has proper documentation showing that he or she is the individual that is authorized to transfer
 - D. Untested marijuana that is transferred to the facility must be segregated until final test results are received
 - E. Tested marijuana or immature plants may be transferred once the facility has received a written testing report and the useable marijuana and immature plants have tested negative for pesticides, mold and mildew
 - F. A PRF is not required to accept a transfer
 - G. Once marijuana or immature plants have been transferred to the facility, it must be kept on site
14. Transfer of tested useable marijuana and/or immature plants is allowed
- A. Prior to a transfer to a patient or caregiver, a PRF must ensure:
 - (1) That marijuana or immature plant has not tested positive for mold, mildew or pesticides
 - (2) The identity of the patient or caregiver by reviewing his or her identification and OMMP card
 - (3) That each transfer is documented with information required by administrative rules.

III. Approval of Dispensary Application

- 1. The Authority must notify the applicant in writing that the application has been approved and the facility is registered and provide proof of registration with unique registration number

IV. Provisional Registration

- 1. How to receive a provisional registration:
 - A. Submit floor plan at time of application that has marked and labeled:
 - (1) All points of entry to a facility
 - (2) All secure areas required by these rules
 - (3) Proposed placement of all video cameras
- 2. A provisional registration does not allow a facility to transfer medicine or accept transfers of medicine
- 3. If a facility is in compliance with the statute and administrative rules, but security system is not in place, the Authority can issue a provisional registration that is valid for 60 days

July 1, 2014
Page 5

V. Renewal

1. Application expires one year following approval
2. To renew, must submit within 60 days of expiration:
 - A. Application renewal form
 - B. Renewal fee
 - C. Forms required for Authority to perform criminal background check
 - D. Pass criminal background check

VI. Denial

1. The Authority must deny if:
 - A. Applicant fails to provide sufficient documentation that proposed facility meets qualifications
 - B. If PRF has been convicted of MCS or DCS, Schedule I or II, within five years of date of application
 - C. If PRF has been convicted more than once of MCS or DCS, Schedule I or II
 - D. If PRF has been prohibited by court for participating in OMMP
2. If authority intends to deny, it must issue a Notice of Proposed Denial

VII. Notification of Changes

1. PRF must notify Authority within ten calendar days of a change in status of a PRF or facility
2. Failure to notify Authority may result of revocation of registration
3. A registered facility that changes location must submit a new application that complies with the rules

VIII. Required Closures

1. Facility may not receive transfers or transfer marijuana or plants if:
 - A. Conviction of PRF for MCS/DCS Schedule I or II
 - B. If PRF changes and Authority has not approved new PRF
 - C. School is found to be within 1,000 feet

IX. Inspections, Violations and Enforcement

1. Inspections are required within six months of approval and at least once every year

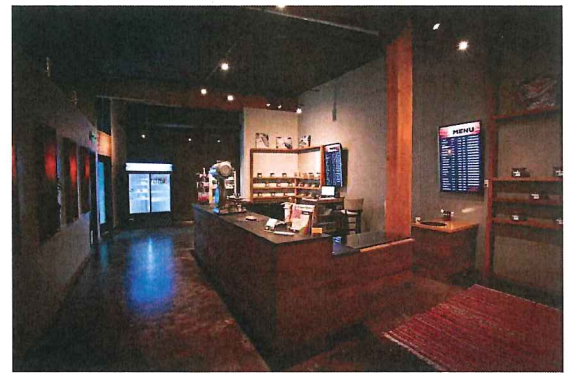
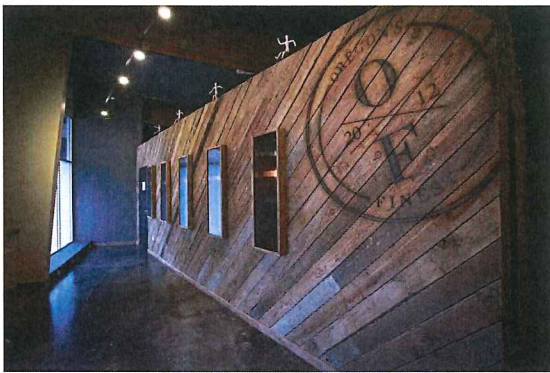
July 1, 2014
Page 6

2. Violations can include failing to cooperate, providing false or misleading information, transferring useable marijuana or plants to an individual who is not a patient or caregiver among others
3. Enforcement of these rules can be informal or formal and are dependent on the circumstances

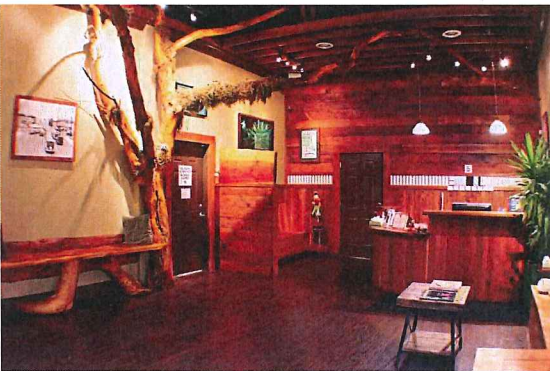
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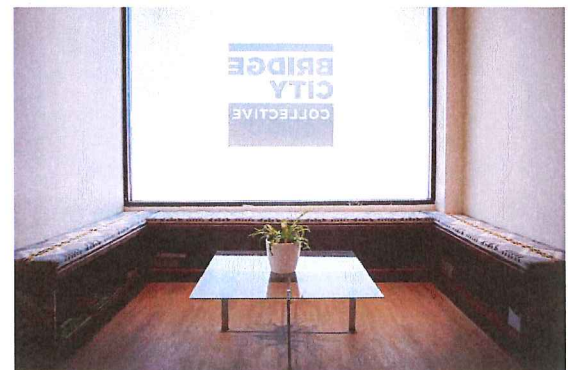
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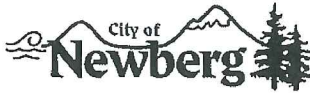


COLLECTIVE AWAKENINGS



BRIDGE CITY COLLECTIVE





RESOLUTION No. 2015-3177

A RESOLUTION INITIATING AN AMENDMENT TO THE NEWBERG DEVELOPMENT CODE ADDING MEDICAL MARIJUANA DISPENSARIES AS AN ALLOWED USE IN SOME COMMERCIAL ZONING DISTRICTS, NOT ALLOWING THEM IN OTHER ZONING DISTRICTS, AND ESTABLISHING 1000-FOOT BUFFERS AROUND SCHOOLS AND PARKS WHERE DISPENSARIES WOULD NOT BE ALLOWED

RECITALS:

1. On March 19, 2014, Senate Bill 1531 was signed into law. SB 1531 gives local governments the ability to impose certain regulations and restrictions on the operation of medical marijuana dispensaries, including the ability to impose a moratorium for a period of time up until May 1, 2015. Newberg enacted such a moratorium on April 7, 2014.
2. The City Council would like to consider a development code amendment that would allow medical marijuana dispensaries in some commercial zoning districts, not allow them in other zoning districts, and establish a 1000-foot buffer around schools and parks where dispensaries would not be allowed.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

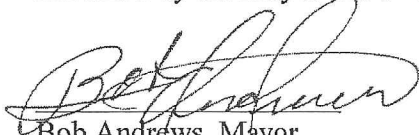
1. The City Council initiates an amendment, as shown in Exhibit "A", to the Newberg Development Code that could potentially allow medical marijuana dispensaries in some commercial zoning districts, not allow them in other zoning districts, and require 1000-foot buffers around schools and parks where dispensaries would not be allowed. Exhibit "A" is by this reference incorporated.
2. By initiating this amendment, the Council does not commit to take any particular action on the amendment, but will consider potential amendments through a public hearing process. The proposed code amendment would be sent to the Planning Commission for a public hearing and recommendation, and then return to the City Council for a public hearing and decision.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: February 3, 2015.

ADOPTED by the City Council of the City of Newberg, Oregon, this 2nd day of February, 2015.


 Sue Ryan, City Recorder

ATTEST by the Mayor this 5th day of February, 2015.


 Bob Andrews, Mayor

**Exhibit A to Resolution 2015-3177
Potential Development Code Amendment Draft**

**Note: Existing text is shown in regular font.
Added text is shown in double-underline
Deleted text is shown in ~~strikethrough~~.**

Section 1. Newberg Development Code Section 15.05.030 shall be amended as follows:

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:

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

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

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

Section 2. Newberg Development Code Section 15.305.020 shall be amended as follows:

15.305.020 Zoning use table

15.305.010 Classification of uses.

The zoning use table under NMC 15.305.020 identifies the land uses that are allowed in the various zoning districts. The specific land use categories are described in Chapter 15.303 NMC. The table identifies each use as one of the following:

- P Permitted Use. The use is a permitted use within the zone. Note that the use still may require design review, building permits, or other approval in order to operate.
- C Conditional Use. A conditional use permit is required for the use. See Chapter 15.225 NMC.
- S Special Use. The use is subject to specific standards as identified within this code. The applicable section is included in the last column of the table.
- (#) A note indicates specific limits on the use. These notes are listed at the bottom of the table.
- X Prohibited Use. The use is specifically prohibited.

If none of the codes above are indicated, then the use is not permitted within the zone. [Ord. 2763 § 1 (Exh. A § 6), 9-16-13.]

15.305.020 Zoning use table.

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																				
421	Retail sales – General						P (20)	P	P (15) (21)	P		P (23)									
422	Retail sales – Bulk outdoor							P	C			P									
423	Retail sales – Convenience						P (20)	P	P (21)	P		P (24)			P(25)						
Def.	Temporary merchant							S	S (21)												NMC 5.15.050 et seq.
	<u>Medical marijuana dispensary</u>							<u>P (35)</u>	<u>P (35)</u>												

Notes.

(35) Shall not be located at the same address as a state-registered marijuana grow site, or within 1,000 feet of the real property comprising a public park, a public or private primary, elementary, secondary or career school, or within 1,000 feet of another medical marijuana dispensary.

77th OREGON LEGISLATIVE ASSEMBLY--2014 Regular Session

Enrolled

Senate Bill 1531

Sponsored by Senators HANSELL, MONROE, STARR; Senators BAERTSCHIGER JR, BOQUIST, CLOSE, FERRIOLI, GIROD, JOHNSON, KNOPP, KRUSE, MONNES ANDERSON, OLSEN, THOMSEN, WHITSETT, WINTERS, Representatives ESQUIVEL, JENSON, THATCHER, THOMPSON, WHISNANT, WITT (at the request of Association of Oregon Counties and League of Oregon Cities) (Pre-session filed.)

CHAPTER

AN ACT

Relating to marijuana facilities; creating new provisions; amending ORS 475.314; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2014 Act is added to and made a part of ORS 475.300 to 475.346.

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

SECTION 3. (1) Notwithstanding ORS 475.314 and section 2 of this 2014 Act, the governing body of a city or county may adopt an ordinance enacting a moratorium on the operation of registered medical marijuana facilities until May 1, 2015, in the area subject to the jurisdiction of the city or county if the moratorium is enacted no later than May 1, 2014.

(2) Notwithstanding ORS 475.309 (1)(b), a person who is responsible for or employed by a registered medical marijuana facility located in an area subject to the jurisdiction of a city or county that enacts a moratorium under this section is not excepted from the criminal laws of this state for possession or delivery of marijuana, aiding and abetting another in the possession or delivery of marijuana or any other criminal offense in which possession or delivery of marijuana is an element.

(3) The governing body of a city or county that enacts a moratorium under this section must notify the Oregon Health Authority, in a manner prescribed by the authority, of the moratorium.

(4) A registered medical marijuana facility that is located in an area subject to the jurisdiction of a city or county that enacts a moratorium under this section may choose to surrender the medical marijuana facility’s registration. To surrender registration under this subsection, the medical marijuana facility must notify the authority, in a manner prescribed

by the authority, of the surrender. If a medical marijuana facility surrenders registration under this subsection, the authority may refund any fee imposed by the authority pursuant to ORS 475.314 (12).

SECTION 4. Section 3 of this 2014 Act is repealed on January 2, 2016.

SECTION 5. ORS 475.314 is amended to read:

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

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

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

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

(a) The name of the person responsible for the medical marijuana facility;

(b) The address of the medical marijuana facility;

(c) Proof that the person responsible for the medical marijuana facility is a resident of Oregon;

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

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

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

(a) Must be located in an area that is zoned for commercial, industrial or mixed use or as agricultural land; *[and may not be located at the same address as a marijuana grow site;]*

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

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

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

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

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

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

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

(4)(a) The authority shall conduct a criminal records check under ORS 181.534 of a person whose name is submitted as the person responsible for a medical marijuana facility under subsection (2) of this section.

(b) A person convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be the person responsible for a medical marijuana facility for five years from the date the person is convicted.

(c) A person convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not be the person responsible for a medical marijuana facility.

(5) If a person submits the application required under subsection (2) of this section, the medical marijuana facility identified in the application meets the qualifications for a medical marijuana facility described in subsection (3) of this section and the person responsible for the medical marijuana facility passes the criminal records check required under subsection (4) of this section, the authority shall register the medical marijuana facility and issue the person responsible for the medical marijuana facility proof of registration. The person responsible for the medical marijuana facility

shall display the proof of registration on the premises of the medical marijuana facility at all times when usable marijuana or immature marijuana plants are being transferred as described in subsection (1) of this section.

(6)(a) A registered medical marijuana facility may receive usable marijuana or immature marijuana plants only from a registry identification cardholder, designated primary caregiver or person responsible for a marijuana grow site if the registered medical marijuana facility obtains authorization, on a form prescribed by the authority by rule and signed by a registry identification cardholder, to receive the usable marijuana or immature marijuana plants.

(b) A registered medical marijuana facility shall maintain:

(A) A copy of each authorization form described in paragraph (a) of this subsection; and

(B) Documentation of each transfer of usable marijuana or immature marijuana plants.

(7) A medical marijuana facility registered under this section may possess usable marijuana and immature marijuana plants in excess of the limits imposed on registry identification cardholders and designated primary caregivers under ORS 475.320.

(8)(a) A registered medical marijuana facility may not transfer any tetrahydrocannabinol-infused product that is meant to be swallowed or inhaled, unless the product is packaged in child-resistant safety packaging that meets standards established by the authority by rule.

(b) A registered medical marijuana facility may not transfer any tetrahydrocannabinol-infused product that is manufactured or packaged in a manner that is attractive to minors, as determined by the authority by rule.

[(8)] **(9)** The authority may inspect:

(a) The premises of an applicant for a medical marijuana facility or a registered medical marijuana facility to ensure compliance with the qualifications for a medical marijuana facility described in subsection (3) of this section; and

(b) The records of a registered medical marijuana facility to ensure compliance with subsection (6)(b) of this section.

[(9)(a)] **(10)(a)** A registry identification cardholder or the designated primary caregiver of a registry identification cardholder may reimburse a medical marijuana facility registered under this section for the normal and customary costs of doing business, including costs related to transferring, handling, securing, insuring, testing, packaging and processing usable marijuana and immature marijuana plants and the cost of supplies, utilities and rent or mortgage.

(b) A medical marijuana facility may reimburse a person responsible for a marijuana grow site under this section for the normal and customary costs of doing business, including costs related to transferring, handling, securing, insuring, testing, packaging and processing usable marijuana and immature marijuana plants and the cost of supplies, utilities and rent or mortgage.

[(10)] **(11)** The authority may revoke the registration of a medical marijuana facility registered under this section for failure to comply with ORS 475.300 to 475.346, [or] rules adopted under ORS 475.300 to 475.346 **or ordinances adopted pursuant to section 2 of this 2014 Act**. The authority may release to the public a final order revoking a medical marijuana facility registration.

[(11)] **(12)** The authority shall adopt rules to implement this section, including rules that:

(a) Require a medical marijuana facility registered under this section to annually renew that registration; and

(b) Establish fees for registering and renewing registration for a medical marijuana facility under this section.

SECTION 6. This 2014 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect March 1, 2014.

Passed by Senate February 18, 2014

Repassed by Senate March 7, 2014

.....
Robert Taylor, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House March 5, 2014

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2014

Approved:

.....M,....., 2014

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2014

.....
Kate Brown, Secretary of State

Final Rules for the Medical Marijuana Dispensary Program

January 28th, 2015

These are the final rules governing medical marijuana dispensaries in Oregon. Individuals intending to file an application to register a dispensary should use these rules as a guide. Visit mmj.oregon.gov for more information.

Table of Contents

333-008-1000	
Applicability	1
333-008-1010	
Definitions.....	1
333-008-1020	
Application for Medical Marijuana Facility Registration	3
333-008-1030	
Fees	4
333-008-1040	
Application Review	5
333-008-1050	
Approval of Application	6
333-008-1060	
Denial of Application	6
333-008-1070	
Expiration and Renewal of Registration.....	7
333-008-1080	
Notification of Changes or Events	7
333-008-1090	
Required Closures.....	8
333-008-1100	
Business Qualifications for Medical Marijuana Facility Registration.....	8
333-008-1110	
Locations of Medical Marijuana Facilities	8
333-008-1120	
Person Responsible for a Medical Marijuana Facility (PRF).....	9
333-008-1130	
Criminal Background Checks.....	10

Final rules for the Medical Marijuana Dispensary Program
January 28th, 2015

333-008-1140	
Security for Registered Facilities.....	11
333-008-1150	
Alarm System for Registered Facilities.....	12
333-008-1160	
Video Surveillance Equipment for Registered Facilities.....	12
333-008-1170	
Required Camera Coverage and Camera Placement for Registered Facilities	12
333-008-1180	
Video Recording Requirements for Registered Facilities	13
333-008-1190	
Testing.....	13
333-008-1200	
Operation of Registered Facilities	15
333-008-1210	
Record Keeping.....	16
333-008-1220	
Labeling	17
333-008-1225	
Packaging.....	17
333-008-1230	
Transfers to a Registered Facility.....	18
333-008-1245	
Transfers to a Patient or Designated Primary Caregiver	19
333-008-1250	
Inspections	20
333-008-1260	
Violations	20
333-008-1275	
Enforcement	21
333-008-1280	
Confidentiality.....	22
333-008-1290	
Change of Location	23

Final rules for the Medical Marijuana Dispensary Program
January 28th, 2015

333-008-1400	
Moratoriums.....	23
333-008-1190	
Appendix A	24
Oregon Medical Marijuana Program rules	
333-008-0010	
Definitions.....	25
333-008-0020	
New Registration Application and Verification	27
333-008-0025	
Marijuana Grow Site Registration.....	29
333-008-0045	
Interim Changes.....	31
333-008-0050	
Confidentiality.....	31
333-008-0120	
System to Allow Verification of Data at All Times	32

OREGON ADMINISTRATIVE RULES
OREGON HEALTH AUTHORITY, PUBLIC HEALTH DIVISION
CHAPTER 333

DIVISION 8

MEDICAL MARIJUANA

Medical Marijuana Facilities

333-008-1000

Applicability

- (1) A person may not establish, conduct, maintain, manage or operate a facility on or after March 1, 2014, unless the facility has been registered by the Authority under these rules.
- (2) Nothing in these rules exempts a PRF, an employee of a registered facility, or a registered facility from complying with any other applicable state or local laws.
- (3) Registration of a facility does not protect a PRF or employees from possible criminal prosecution under federal law.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

333-008-1010

Definitions

For the purposes of OAR 333-008-1000 through 333-008-1400 the following definitions apply:

- (1) "Agricultural land" means land that is located within an exclusive farm use zone as that term is described in ORS 215.203.
- (2) "Attended primarily by minors" means that a majority of the students are minors.
- (3) "Authority" means the Oregon Health Authority.
- (4) "Batch" means a quantity of usable marijuana of a single strain or a number of immature plants transferred at one time to a facility by a person authorized by a patient to transfer usable marijuana to a registered facility.
- (5) "Business day" means Monday through Friday excluding legal holidays.
- (6) "Career school" means any private proprietary professional, technical, business or other school instruction, organization or person that offers any instruction or training for the purpose or purported purpose of instructing, training or preparing persons for any profession at a physical location attended primarily by minors.
- (7) "Conviction" means an adjudication of guilt upon a verdict or finding entered in a criminal proceeding in a court of competent jurisdiction.
- (8)(a) "Designated primary caregiver" means an individual 18 years of age or older who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is designated as such on that person's application for a registry identification card or in other written notification to the Authority.
- (b) "Designated primary caregiver" does not include the person's attending physician.
- (9) "Domicile" means the place of abode of an individual where the person intends to remain and to which, if absent, the individual intends to return.
- (10) "Edible" means a product made with marijuana that is intended for ingestion.

Final rules for the Medical Marijuana Dispensary Program
January 28th, 2015

- (11) “Elementary school” means a learning institution containing any combination of grades Kindergarten through 8 or age level equivalent.
- (12)(a) “Employee” means any person, including aliens, employed for remuneration or under any contract of hire, written or oral, express or implied, by an employer.
- (b) “Employee” does not include a person who volunteers or donates services performed for no remuneration or without expectation or contemplation of remuneration as the adequate consideration for the services performed for a religious or charitable institution or a governmental entity.
- (13) “Facility” means a medical marijuana facility.
- (14) “Farm use” has the meaning given that term in ORS 215.203.
- (15) “Finished product” means a useable marijuana product, including but not limited to edible products, ointments, concentrates and tinctures. A finished product does not mean dried marijuana flowers.
- (16) “Grower” has the same meaning as “person responsible for a marijuana grow site.”
- (17) “Grow site” means a specific location registered by the Authority and used by the grower to produce marijuana for medical use by a specific patient.
- (18)(a) “Immature marijuana plant or immature plant” means a marijuana plant that has no flowers, is less than 12 inches in height, and less than 12 inches in diameter.
- (b) A seedling or start that does not meet all three criteria in subsection (18)(a) is a mature plant.
- (19) “Macroscopic screening” means visual observation without the aid of magnifying lens(es).
- (20) “Microscopic screening” means visual observation with a minimum magnification of 40x.
- (21) “Minor” means an individual under the age of 18.
- (22) “Oregon Medical Marijuana Program” or “OMMP” means the program operated and administered by the Authority that registers patients, designated primary caregivers, and growers.
- (23) “Patient” has the same meaning as “registry identification cardholder.”
- (24) “Person” means an individual.
- (25) “Person responsible for a marijuana grow site” means a person who has been selected by a patient to produce medical marijuana for the patient, and who has been registered by the Authority for this purpose and has the same meaning as “grower”.
- (26) “Person responsible for a medical marijuana facility” or “PRF” means an individual who owns, operates, or otherwise has legal responsibility for a facility and who meets the qualifications established in these rules and has been approved by the Authority.
- (27) “Pesticide” means any substance or mixture of substances, intended to prevent, destroy, repel, or mitigate any pest.
- (28) “Premises” means a location registered by the Authority under these rules and includes all areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms, including all public and private areas where individuals are permitted to be present.
- (29) “Random sample” means an amount of usable marijuana taken from a batch in which different fractions of the usable marijuana have an equal probability of being represented.
- (30) “Registry identification cardholder” means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Authority.

Final rules for the Medical Marijuana Dispensary Program
January 28th, 2015

(31) “Remuneration” means compensation resulting from the employer-employee relationship, including wages, salaries, incentive pay, sick pay, compensatory pay, bonuses, commissions, stand-by pay, and tips.

(32) “Resident” means an individual who has a domicile within this state.

(33) “Restricted area” means a secure area where usable marijuana and immature plants are present.

(34) “Safe” means:

(a) A metal receptacle with a locking mechanism capable of storing all usable marijuana at a registered facility that:

(A) Is rendered immobile by being securely anchored to a permanent structure of the building; or

(B) Weighs more than 750 pounds.

(b) A vault; or

(c) A refrigerator or freezer capable of being locked for storing edibles or other finished products that require cold storage that:

(A) Is rendered immobile by being securely anchored to a permanent structure of the building; or

(B) Weighs more than 750 pounds.

(35) “Secondary school” means a learning institution containing any combination of grades 9 through 12 or age level equivalent and includes those institutions that provide junior high schools which include 9th grade.

(36) “Secure area” means a room:

(a) With doors that are kept locked and closed at all times except when the doors are in use; and

(b) Where access is only permitted as authorized in these rules.

(37) “Single strain” means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.

(38) “These rules” means OAR 333-008-1000 through 333-008-1400.

(39) “Usable marijuana” has the meaning given that term is ORS 475.302 and includes “finished product”.

(40) “Valid testing methodology” means a scientifically valid testing methodology described in a published national or international reference and validated by the testing laboratory.

(41) “Vault” means an enclosed area that is constructed of steel-reinforced or block concrete and has a door that contains a multiple-position combination lock or the equivalent, a relocking device or equivalent, and a steel plate with a thickness of at least one-half inch.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

333-008-1020

Application for Medical Marijuana Facility Registration

(1) A PRF wishing to apply to register a facility must provide to the Authority:

(a) An application on a form prescribed by the Authority;

(b) The applicable fee as specified in OAR 333-008-1030;

(c) Documentation that demonstrates the facility is registered as a business or has filed an application to register as a business with the Office of the Secretary of State;

(d) Documentation that shows the current zoning of the location of the proposed facility;

Final rules for the Medical Marijuana Dispensary Program
January 28th, 2015

- (e) Documentation, on a form prescribed by the Authority, with the applicant's affirmation that the proposed facility is not within 1,000 feet of the real property comprising a public or private elementary, secondary or career school;
 - (f) Information and fingerprints required for a criminal background check in accordance with OAR 333-008-1130; and
 - (g) Proof that the PRF resides in Oregon in accordance with OAR 333-008-1120(1)(a).
- (2) An application for the registration of a facility must be submitted by a PRF electronically via the Authority's website, <http://mmj.oregon.gov>. The documentation required in subsections (1)(c) through (g) of this rule may be submitted electronically to the Authority or may be mailed. If documentation is mailed, it must be postmarked within five calendar days of the date the application was submitted electronically to the Authority or the application will be considered to be incomplete. If documentation is submitted electronically it must be received by the Authority by 5 p.m. Pacific Standard Time (PST) within five calendar days of the date the application was submitted electronically to the Authority or the application will be considered incomplete. Applicable fees must be paid online at the time of application.
- (3) Applications will be reviewed in the order they are received by the Authority. An application is considered received as of the date and time that payment of fees is authorized by the entity that issued the credit or debit card used by the PRF to pay the fees.
- (4) The Authority shall return an incomplete application to the person that submitted the application. A person may re-submit an application that was returned as incomplete at any time. An application that is returned as incomplete must be treated by the Authority as if it was never received. An application is considered incomplete if:
- (a) An application does not contain all the requested information in the form;
 - (b) The applicant does not submit the required documentation described in subsections (1)(c) through (g) of this rule; or
 - (c) The application and registration fees are not paid.
- (5) A PRF who wishes to register more than one location must submit a separate application, registration fees, and all documentation described in section (1) of this rule for each location.
- (6) At the time of application the PRF will be asked, by the Authority, to sign an authorization waiving the confidentiality of the location of the facility and permitting the Authority to make the location and name of the facility public if the facility is registered.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

333-008-1030

Fees

- (1) The initial fees for the registration of a facility are:
 - (a) A non-refundable application fee of \$500; and
 - (b) A \$3,500 registration fee.
- (2) The annual renewal fees for the registration of a facility are:
 - (a) A \$500 non-refundable renewal fee; and
 - (b) A \$3,500 registration fee.
- (3) The Authority must return the registration fee if:
 - (a) An application is returned to the applicant as incomplete;
 - (b) The Authority denies an application; or
 - (c) An applicant withdraws an application.

Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: 475.314

333-008-1040

Application Review

- (1) Once the Authority has determined that an application is complete it will review an application to the extent necessary to determine compliance with ORS 475.314 and these rules.
- (2) The Authority may, in its discretion, prior to acting on an application:
 - (a) Contact the applicant and request additional documentation or information;
 - (b) Inspect the premises of the proposed facility; and
 - (c) Verify any information submitted by the applicant.
- (3) Prior to making a decision whether to approve or deny an application the Authority must:
 - (a) Ensure that the criminal background check process has been completed and review the results;
 - (b) Contact the OMMP and obtain documentation of whether the location of the facility is the same location as a registered grow site under OAR 333-008-0025;
 - (c) Review documentation submitted by the applicant to determine, based on the information provided by the applicant, whether the proposed facility is located within 1,000 feet of the real property comprising a public or private elementary, secondary or career school;
 - (d) Review the list of registered facilities to determine whether any registered facilities are within 1,000 feet of the proposed facility; and
 - (e) Verify that the business that operates the facility is registered with the Office of the Secretary of State.
- (4) If during the review process the Authority determines that the application or supporting documentation contains intentionally false or misleading information the Authority must return the application to the applicant as incomplete.
- (5) If the proposed facility is in compliance with ORS 475.314(3)(a) through (d) and the PRF has passed the criminal background check and resides in Oregon, the Authority must notify the applicant in writing that the dispensary and PRF have met the initial criteria for registration. Within 60 days of the Authority's notification the applicant must submit a form, prescribed by the Authority, that the proposed facility and PRF are in compliance with these rules, including but not limited to:
 - (a) Installation of a security system, including a video surveillance system, and alarm system that are all operational, and installation of a safe in accordance with OAR 333-008-1140 through 333-008-1180;
 - (b) Having policies and procedures as required by OAR 333-008-1200 and training for employees on the policies and procedures;
 - (c) Identification of at least one laboratory that will perform the testing required in OAR 333-008-1190;
 - (d) Having a fully operational electronic data management system in accordance with OAR 333-008-1210; and
 - (e) Having packaging and labeling that complies with OAR 333-008-1220 and 333-008-1225.
- (6) If the Authority does not receive the form described in section (5) of this rule within 60 days of the applicant being notified that the dispensary and PRF met initial criteria for registration, the applicant's application will be returned as incomplete.

Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: 475.314

333-008-1050

Approval of Application

- (1) If the Authority receives the form required to be submitted under OAR 333-008-1040(5) the Authority must perform a site visit within 30 days of receiving the form to determine whether the PRF and facility are in compliance with these rules.
- (2) If, after the site visit the Authority determines that the facility is in compliance with these rules the Authority must provide the applicant with proof of registration that includes a unique registration number, and notify the PRF in writing that the facility may operate.
- (3) If, after the site visit the Authority determines that the facility is not in compliance with these rules the Authority may:
 - (a) Give the PRF 10 business days to come into compliance;
 - (b) Propose to deny the facility's registration in accordance with OAR 333-008-1275(2); or
 - (c) Consider the application to be incomplete.
- (4) A facility that has been registered must display proof of registration in a prominent place inside the facility so that proof of registration is easily visible to individuals authorized to transfer usable marijuana and immature plants to the facility and individuals who are authorized to receive a transfer of usable marijuana and immature plants from the facility at all times when usable marijuana or immature plants are being transferred.
- (5) A registered facility may not use the Authority or the OMMP name or logo except to the extent that information is contained on the proof of registration on any signs at the facility, on its website, or in any advertising or social media.
- (6) A facility's registration is only valid for the location indicated on the proof of registration and is only issued to the PRF that is listed on the application or subsequently approved by the Authority.
- (7) A facility's registration may not be transferred to another location.

Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: 475.314

333-008-1060

Denial of Application

- (1) The Authority must deny an application if:
 - (a) An application, supporting documentation provided by the PRF, or other information obtained by the Authority shows that the qualifications for a facility in ORS 475.314 or these rules have not been met; or
 - (b) The PRF has been:
 - (A) Convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II within five years from the date the application was received by the Authority; or
 - (B) Convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II; or
 - (C) Prohibited by a court from participating in the OMMP.
- (2) If the PRF that is identified in the application is not qualified to be a PRF, the Authority will permit a change of PRF form to be submitted in accordance with OAR 333-008-1120, along with

Final rules for the Medical Marijuana Dispensary Program
January 28th, 2015

the applicable criminal background check fee. If the proposed PRF is not qualified to be a PRF, the Authority must deny the application in accordance with section (1) of this rule.

(3) If the Authority intends to deny an application for registration it must issue a Notice of Proposed Denial in accordance with ORS 183.411 through 183.470.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1070

Expiration and Renewal of Registration

(1) A facility's registration expires one year following the date of application approval.

(2) If a PRF wishes to renew the facility's registration, the person must submit to the Authority within 60 calendar days of the registration's expiration:

(a) An application renewal form prescribed by the Authority;

(b) The required renewal fees;

(c) Forms required for the Authority to do a criminal background check on the PRF.

(3) A PRF that does not submit timely renewal documentation in accordance with section (2) of this rule may not operate the facility if the previous registration expires prior to the Authority issuing a renewed registration. The facility will remain registered until a renewal is either issued or denied, but the facility may not operate with an expired registration.

(4) If a PRF does not submit a renewal form and the required renewal fees prior to the registration's expiration, the registration is expired and is no longer valid, and the PRF may reapply for registration.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1080

Notification of Changes or Events

(1) A PRF must notify the Authority within 10 calendar days of any of the following:

(a) The PRF's conviction for the manufacture or delivery of a controlled substance in Schedule I or Schedule II;

(b) The issuance of a court order that prohibits the PRF from participating in the OMMP;

(c) A decision to change the PRF;

(d) A decision to permanently close the facility at that location;

(e) A decision to move to a new location;

(f) A change in ownership;

(g) A change in the person's residency;

(h) The location of a public or private elementary, secondary or career school attended primarily by minors within 1,000 feet of the facility;

(i) Any structural changes within the facility that will result in a change to the secure or restricted areas, or entrances or exits to the facility; and

(j) The theft of usable marijuana or immature plants.

(2) The notification required in section (1) of this rule must include a description of what has changed or the event and any documentation necessary for the Authority to determine whether the facility is still in compliance with ORS 474.314 and these rules including but not limited to, as applicable:

(a) A copy of the criminal judgment or order;

- (b) A copy of the court order prohibiting the PRF from participating in the OMMP;
 - (c) The location of the school that has been identified as being within 1,000 feet of the facility;
 - (d) The information required in OAR 333-008-1120 and 333-008-1130 to determine the residency of the new PRF and to perform the criminal background check; or
 - (e) A copy of the police report documenting that the theft of usable marijuana or immature plants was reported to law enforcement.
- (3) Failure of the PRF to notify the Authority in accordance with this rule may result in revocation of a facility's registration.
Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: 475.314

333-008-1090

Required Closures

A facility may not receive transfers of usable marijuana or immature plants or transfer usable marijuana or immature plants if:

- (1) The PRF is convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II;
- (2) The PRF changes and the Authority has not:
 - (a) Performed a criminal background check on the proposed PRF in accordance with OAR 333-008-1130;
 - (b) Determined whether the individual is a resident of Oregon; and
 - (c) Provided written approval that the new PRF meets the requirements of ORS 475.314.
- (3) The PRF has been ordered by the court not to participate in the OMMP; or
- (4) A public or private elementary, secondary or career school attended primarily by minors is found to be within 1,000 of the registered facility.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1100

Business Qualifications for Medical Marijuana Facility Registration

A facility must maintain a current registration as a business with the Office of the Secretary of State in order to receive or maintain registration.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1110

Locations of Medical Marijuana Facilities

- (1) In order to be registered a facility must be located in an area that is zoned by the local governing agency for commercial, industrial or mixed use or as agricultural land.
- (2) Registration by the Authority is not a guarantee that a facility is permitted to operate under applicable land use or other local government laws where the facility is located.
- (3) A facility may not be located:
 - (a) At the same address as a registered marijuana grow site;
 - (b) Within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors; or
 - (c) Within 1,000 feet of another medical marijuana facility.

Final rules for the Medical Marijuana Dispensary Program
January 28th, 2015

(4) For purposes of implementing ORS 475.314(3)(c), the Authority will consider a location to be a school if it has at least the following characteristics:

(a) Is a public or private elementary, secondary or career school as those terms are defined OAR 333-008-1010;

(b) There is a building or physical space where students gather together for education purposes on a regular basis;

(c) A curriculum is provided;

(d) Attendance at the location meets Oregon's mandatory attendance law, ORS 339.010 or an exemption under ORS 339.030(1)(a); and

(e) Faculty is present to teach or guide student education.

(5) For purposes of determining the distance between a facility and a school referenced in subsection (3)(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 an existing public or private elementary, secondary or career school to the closest point of the premises of a facility. If any portion of the premises of a proposed or registered facility is within 1,000 feet of a public or private elementary, secondary or career school it may not be registered.

(6) For purposes of determining the distance between a facility and another registered facility "within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in every direction from the closest point anywhere on the premises of a registered facility to the closest point anywhere on the premises of a proposed facility. If any portion of the premises of a proposed facility is within 1,000 feet of a registered facility it may not be registered.

(7) In order to be registered a facility must operate at a particular location as specified in the application and may not be mobile.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1120

Person Responsible for a Medical Marijuana Facility (PRF)

(1) A PRF must:

(a) Be a resident of Oregon. Residency may be proved by submitting to the Authority:

(A) A valid Oregon driver's license, a valid Oregon identification card that includes a photograph of the person, a valid passport, or a valid military identification card that includes a photograph of the person; and

(B) Copies of utility bills, rental receipts, mortgage statements or similar documents that contain the name and address of the domicile of the PRF.

(b) Have legal authority to act on behalf of the facility; and

(c) Be responsible for ensuring the facility complies with applicable laws, if registered.

(2) A PRF may not:

(a) Have been convicted in any state for the manufacture or delivery of a controlled substance in Schedule I or Schedule II within five years from the date of application; or

(b) Have been convicted more than once in any state for the manufacture or delivery of a controlled substance in Schedule I or Schedule II.

(3) A PRF is accountable for any intentional or unintentional action of its owners, officers, managers, employees or agents, with or without the knowledge of the PRF, who violate ORS 475.314 or these rules.

(4) If a PRF no longer meets the criteria of a PRF the Authority shall inform the PRF and the owner of the facility if different that:

- (a) The PRF may no longer serve in that capacity;
- (b) In order to remain registered, a change of PRF form must be submitted along with a criminal background check fee of \$35; and
- (c) The facility may not operate until the Authority has approved a PRF.

(5) If the Authority is notified that a change of PRF is needed, the current PRF is no longer able to serve as the PRF, or the PRF has been or will be removed by the owner of a facility, the owner of the facility must submit a change of PRF form to the Authority within 10 business days of the notification or the Authority will begin proceedings to revoke the registration of the facility.

(6) If the PRF of record for the facility is no longer serving in that capacity the facility may not operate until a new PRF has been approved by the Authority.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1130

Criminal Background Checks

(1) A PRF must, at the time of application, provide to the Authority:

(a) A criminal background check request form, prescribed by the Authority that includes but is not limited to:

- (A) First, middle and last name;
- (B) Any aliases;
- (C) Date of birth;
- (D) Driver's license information; and
- (E) Address and recent residency information.

(b) Fingerprints in accordance with the instructions on the Authority's webpage:

<http://mmj.oregon.gov>.

(2) The Authority may request that the PRF disclose his or her Social Security Number if notice is provided that:

- (a) Indicates the disclosure of the Social Security Number is voluntary; and
- (b) That the Authority requests the Social Security Number solely for the purpose of positively identifying the PRF during the criminal records check process.

(3) The Authority shall conduct a criminal records check in order to determine whether the PRF has been convicted of the manufacture or delivery of a controlled substance in Schedule I or Schedule II in any state.

(4) The Authority must conduct a criminal background check in accordance with this rule on a PRF every year at the time of application renewal.

(5) If a PRF wishes to challenge the accuracy or completeness of information provided by the Department of State Police, the Federal Bureau of Investigation and agencies reporting information to the Department of State Police or Federal Bureau of Investigation, those challenges must be made through the Department of State Police, Federal Bureau of Investigation or reporting agency and not through the contested case process specified in OAR 333-008-1060(2).

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1140**Security for Registered Facilities**

(1) The PRF must ensure that a registered facility complies with OAR 333-008-1140 through 333-008-1180.

(2) The PRF is responsible for the security of all usable marijuana and immature plants in the registered facility, including providing adequate safeguards against theft or diversion of usable marijuana and immature plants and records that are required to be kept.

(3) The PRF must ensure that commercial grade, non-residential door locks are installed on every external door at a registered facility prior to opening for business and used while a facility is registered.

(4) During all hours when the registered facility is open for business, the PRF must ensure that:

(a) All usable marijuana and immature plants received and all usable marijuana and immature plants available for transfer to a patient or a designated primary caregiver are kept in a locked, secure area that can only be accessed by authorized personnel.

(b) All areas where usable marijuana or immature plants are received for transfer by a registered facility are identified as a restricted access area by posting a sign not less than 12 inches wide and 12 inches long, composed of letters not less than one-half inch in height that reads, “Restricted Access Area – Authorized Personnel Only”.

(c) All areas where usable marijuana or immature plants are available for transfer to a patient or designated primary caregiver are:

(A) Identified as a restricted access area and clearly identified by the posting of a sign not less than 12 inches wide and 12 inches long, composed of letters not less than one-half inch in height that reads “Restricted Access Area – No Minors Allowed”;

(B) Supervised by the PRF or an employee of the registered facility at all times when a patient or designated primary caregiver is present; and

(C) Separate from any area where usable marijuana or immature plants are being transferred to a registered facility.

(5) During all hours when the registered facility is not open for business the PRF must ensure that:

(a) All entrances to and exits from the facility are securely locked and any keys or key codes to the facility remain in the possession of the PRF or authorized employees;

(b) All usable marijuana is kept in a safe; and

(c) All immature plants are in a locked room.

(6) The PRF must ensure that:

(a) Electronic records are encrypted, and securely stored to prevent unauthorized access and to ensure confidentiality;

(b) There is an electronic back-up system for all electronic records; and

(c) All video recordings and archived required records not stored electronically are kept in a locked storage area. Current records may be kept in a locked cupboard or desk outside the locked storage area during hours when the registered facility is open.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1150**Alarm System for Registered Facilities**

(1) Prior to being registered a PRF must ensure that the facility has a fully operational security alarm system, installed by an alarm installation company, on all facility entry or exit points and perimeter windows.

(2) The security alarm system for the registered facility must:

- (a) Be able to detect movement inside the registered facility;
- (b) Be programmed to notify a security company that will notify the PRF or his or her designee in the event of a breach; and
- (c) Have at least two operational “panic buttons” located inside the registered facility that are linked with the alarm system that notifies a security company.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1160**Video Surveillance Equipment for Registered Facilities**

(1) Prior to being registered a PRF must ensure that a fully operational video surveillance recording system is installed in the facility.

(2) Video surveillance equipment must, at a minimum:

- (a) Consist of:
 - (A) Digital or network video recorders;
 - (B) Cameras capable of meeting the requirements of OAR 333-008-1170 and this rule;
 - (C) Video monitors;
 - (D) Digital archiving devices; and
 - (E) A color printer capable of producing still photos.
 - (b) Be equipped with a failure notification system that provides prompt notification to the PRF or employees of any prolonged surveillance interruption or failure; and
 - (c) Have sufficient battery backup to support a minimum of one hour of recording time in the event of a power outage.
- (3) All video surveillance equipment and recordings must be stored in a locked secure area that is accessible only to the PRF, authorized employees of the registered facility and the Authority.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1170**Required Camera Coverage and Camera Placement for Registered Facilities**

(1) Prior to being registered a PRF must ensure that the facility has camera coverage for:

- (a) All secure and restricted access areas described in OAR 333-008-1140;
- (b) All point of sale areas;
- (c) All points of entry to or exit from secure and restricted access areas; and
- (d) All points of entry to or exit from the registered facility.

(2) A PRF must ensure that cameras are placed so that they capture clear and certain images of any individual and activity occurring:

- (a) Within 15 feet both inside and outside of all points of entry to and exit from the registered facility; and
- (b) Anywhere within secure or restricted areas on the facility premises.

Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: 475.314

333-008-1180

Video Recording Requirements for Registered Facilities

- (1) A PRF must ensure that all cameras are continuously monitored by motion sensor video equipment or similar technology 24 hours a day when usable marijuana or immature plants are on the premises of the facility.
- (2) A PRF must ensure that:
 - (a) All surveillance recordings are kept for a minimum of 30 calendar days and are in a format that can be easily accessed for viewing;
 - (b) The surveillance system has the capability to produce a color still photograph from any camera image;
 - (c) The date and time is embedded on all surveillance recordings without significantly obscuring the picture;
 - (d) Video recordings are archived in a format that ensures authentication of the recording as a legitimately-captured video and guarantees that no alterations of the recorded image has taken place; and
 - (e) Video surveillance records and recordings are available upon request to the Authority for the purpose of ensuring compliance with ORS 475.314 and these rules.

Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: 475.314

333-008-1190

Testing

- (1) Prior to being registered a PRF must have documentation that identifies at least one laboratory that will do the testing in accordance with these rules and identify who will do the testing for immature plants.
- (2) A PRF must ensure that usable marijuana and immature plants are tested for pesticides, mold and mildew in accordance with this rule prior to the usable marijuana or immature plants being transferred to a patient or a designated primary caregiver. A PRF may accept test results from a grower or other individual for flowers or other usable plant material if:
 - (a) The grower or other individual provides a copy of the test results;
 - (b) The PRF can demonstrate that the grower or other individual took random samples from the batch to be tested; and
 - (c) The PRF can demonstrate that the batch from where samples were taken were sealed and not tampered with from the time samples for testing were taken and when they were delivered to the facility.
- (3) Upon usable marijuana being transferred to a registered facility in accordance with OAR 333-008-1230, the PRF must ensure the usable marijuana is segregated into batches, that each batch is placed in an individual container or bag, and that a label is attached to the container or bag that includes at least the following information:
 - (a) A unique identifier;
 - (b) The name of the person who transferred it; and
 - (c) The date the usable marijuana was received by the registered facility.

Final rules for the Medical Marijuana Dispensary Program
January 28th, 2015

- (4) Sampling. A PRF must ensure that random samples from each batch are taken in an amount necessary to conduct the applicable test, that the samples are labeled with the batch's unique identifier, and submitted for testing.
- (5) Testing. A PRF must ensure that each sample is tested for pesticides, mold, and mildew and for an analysis of the levels of tetrahydrocannabinol (THC) and cannabidiol (CBD).
- (a) Immature Plants. An immature plant may be tested for pesticides, mold or mildew by conducting a macroscopic or microscopic screening to determine if the plant has visible pesticide residue, mold or mildew. Testing for mold and mildew on immature plants must be done at least every 30 calendar days.
- (b) Flowers or other usable marijuana plant material. Usable marijuana in the form of flowers or other plant material must be:
- (A) Tested for pesticides, mold and mildew using valid testing methodologies and macroscopic or microscopic screening may not be used;
- (B) Tested for pesticides by testing for the following analytes:
- (i) Chlorinated Hydrocarbons;
- (ii) Organophosphates;
- (iii) Carbamates; and
- (iv) Pyrethroids; and
- (C) Analyzed, using valid testing methodologies, to determine the levels of THC and CBD.
- (c) Finished Products. If a facility receives a transfer of a pre-packaged finished product the facility may, in lieu of testing the finished product, obtain from the individual who transferred the finished product, lab results that show the usable marijuana in the finished product was tested in accordance with this rule, and that the finished product was tested for levels of THC and CBD.
- (6) Laboratory Requirements. A PRF must ensure that all testing, except for testing of immature plants, is done by a third party or in-house laboratory that:
- (a) Uses valid testing methodologies; and
- (b) Has a Quality System for testing of pesticides, mold and mildew that is compliant with the:
- (A) 2005 International Organization for Standardization 17025 Standard; or
- (B) 2009 National Environmental Laboratory Accreditation Conference Institute TNI Standards.
- (7) Macroscopic or microscopic screening of immature plants must be conducted by a person who has a minimum of a bachelor's degree in horticulture, botany, plant pathology, or microbiology but is not required to be done by a laboratory.
- (8) Testing Results. A laboratory must provide testing results to the PRF signed by an official of the laboratory who can attest to the accuracy of the results, and that includes the levels of pesticides, mold or mildew detected and the levels of THC and CBD.
- (a) If an immature plant has visible pesticide residue, mold or mildew it must be deemed to test positive and must be returned to the person who transferred the immature plant to the registered facility.
- (b) A sample of usable marijuana shall be deemed to test positive for mold and mildew if the sample has levels that exceed the maximum acceptable counts in Appendix A.
- (c) A sample of usable marijuana shall be deemed to test positive for pesticides with a detection of more than 0.1 parts per million of any pesticide.
- (9) If an immature plant or sample of usable marijuana tests positive for pesticides, mold or mildew based on the standards in this rule the PRF must ensure the entire batch from which the sample was taken is returned to the person who transferred the immature plant or usable

marijuana to the registered facility and must document how many or how much was returned, to whom, and the date it was returned.

(10) A registered facility may perform its own testing as long as the testing complies with this rule.

(11) The PRF may permit laboratory personnel or other persons authorized to do testing access to secure or restricted access areas of the registered facility where usable marijuana or immature plants are stored. The PRF must log the date and time in and out of all such persons.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1200

Operation of Registered Facilities

(1) A PRF must ensure that a registered facility does not permit:

(a) A minor to be present in any area of a registered facility where usable marijuana or immature plants are present, even if the minor is a patient or an employee; and

(b) Consumption, ingestion, inhalation or topical application of usable marijuana anywhere on the premises of the registered facility, except that an employee of a registered facility who is a patient may consume usable marijuana during his or her work shift on the premises of the registered facility as necessary for his or her medical condition, if the employee is:

(A) Alone and in a closed room if the usable marijuana is being smoked;

(B) Not visible to patients or caregivers on the premises of the registered facility to receive a transfer of usable marijuana or an immature plant; and

(C) Not visible to the public outside the facility.

(2) A PRF must ensure that a registered facility uses an Oregon Department of Agriculture licensed and certified scale to weigh all usable marijuana.

(3) The following persons are the only persons permitted in any area of a registered facility where usable marijuana or immature plants are present, and only in accordance with these rules, as applicable:

(a) A PRF;

(b) An owner of a registered facility;

(c) An employee of the registered facility;

(d) Laboratory personnel in accordance with OAR 333-008-1190;

(e) A contractor authorized by the PRF to be on the premises of a registered facility;

(f) A patient, designated primary caregiver, or growers;

(g) An authorized employee or authorized contractor of the Authority;

(h) Other government officials that have jurisdiction over some aspect of the registered facility or that otherwise have authority to be on the premises of the registered facility; and

(i) A governmental official authorized by the Authority to be on the premises if accompanied by an Authority representative and the facility has been provided notice and has agreed to permit the governmental official access.

(4) A PRF must have written detailed policies and procedures and training for employees on the policies and procedures that at a minimum, cover the following:

(a) Security;

(b) Testing;

(c) Transfers of usable marijuana and plants to and from the facility;

(d) Operation of a registered facility;

- (e) Required record keeping;
 - (f) Labeling; and
 - (g) Violations and enforcement.
- Stat. Auth.: ORS 475.314, 475.338
Stats. Implemented: 475.314

333-008-1210

Record Keeping

- (1) A PRF must ensure that the following information is documented and maintained electronically in a manner that can easily be shared with the Authority or accessed by the Authority:
 - (a) All Authorization to Transfer forms, including the date on which a form was received;
 - (b) Any written notifications from a patient with regard to any change in status as required by ORS 475.309(7)(a)(B) or (10)(a);
 - (c) Any revocation of an Authorization to Transfer form;
 - (d) All transfer information required in OAR 333-008-1230 and 333-008-1245;
 - (e) Documentation of the costs of doing normal and customary business used to establish the reimbursement amounts for transfers of usable marijuana or immature plants, including costs related to transferring, handling, securing, insuring, testing, packaging and processing usable marijuana and immature marijuana plants and the cost of supplies, utilities and rent or mortgage.
 - (f) The amount of money paid by a registered facility to a grower for each transfer of usable marijuana or immature plants;
 - (g) The amount of money paid by each patient or designated primary caregiver for a transfer of usable marijuana or an immature plant;
 - (h) The laboratory reports of all testing and other information required to be documented in OAR 333-008-1190; and
 - (i) All other information required to be documented and retained by these rules.
- (2) The PRF must ensure that information required to be documented pursuant to section (1) of this rule is maintained in a safe and secure manner that protects the information from unauthorized access, theft, fire, or other destructive forces, and is easily retrievable for inspection by the Authority upon request, either at the registered facility or online.
- (3) A PRF must ensure that a registered facility uses an electronic data management system for the recording of transfers of usable marijuana and immature plants. The system must meet the following minimum requirements:
 - (a) Record the information required to be documented in this rule and OAR 333-008-1230 and 333-008-1245;
 - (b) Provide for off-site or secondary backup system;
 - (c) Assign a unique transaction number for each transfer to or from the registered facility;
 - (d) Monitor date of testing and testing results;
 - (e) Track products by unique transaction number through the transfer in, testing and transfer out processes;
 - (f) Generate transaction and other reports requested by the Authority viewable in PDF format;
 - (g) Produce reports, including but not limited to inventory reports; and
 - (h) Provide security measures to ensure patient and grower records are kept confidential.
- (4) Documents and information required to be maintained in these rules must be retained by the PRF for at least one year.

Final rules for the Medical Marijuana Dispensary Program
January 28th, 2015

(5) A PRF must provide the Authority with any documentation required to be maintained in these rules upon request, in the format requested by the Authority, or permit the Authority access to such documentation on-site.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1220

Labeling

(1) Prior to transferring usable marijuana a PRF must ensure that a label is affixed to the usable marijuana that includes but is not limited to:

(a) Flowers or other usable plant material:

(A) Percentage of THC and CBD;

(B) Weight in grams;

(C) Testing batch number and date tested;

(D) Who performed the testing ; and

(E) Description of the product (strain).

(b) Finished product:

(A) THC and CBD potency;

(B) The weight or volume of useable marijuana in the packaged finished product in grams, milligrams, or milliliters, as applicable;

(C) Testing batch number and date tested;

(D) Who performed the testing; and

(E) Warning label in accordance with section (2) of this rule.

(2) If the registered facility transfers a finished product, the PRF must ensure that the finished product has a warning label on the outside of the packaging that includes the following:

“WARNING: MEDICINAL PRODUCT – KEEP OUT OF REACH OF CHILDREN” in bold capital letters, in a font size that is larger than the type-size of the other printing on the label such that it is easy to read and prominently displayed on the product.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

333-008-1225

Packaging

(1) For purposes of this rule:

(a) “Child-resistant safety packaging” means:

(A) Containers designed and constructed to be significantly difficult for children under five years of age to open and not difficult for adults to use properly;

(B) Opaque so that the product cannot be seen from outside the packaging;

(C) Closable for any product intended for more than a single use or containing multiple servings; and

(D) Labeled in accordance with OAR 333-008-1220.

(b) “Container” means a sealed, hard or soft-bodied receptacle in which a tetrahydrocannabinol-infused product is placed prior to being transferred to a patient or caregiver.

(c) “Packaged in a manner not attractive to minors” means the tetrahydrocannabinol-infused product is not in a container that is brightly colored, depicts cartoons or images other than the

logo of the facility, unless the logo of the facility depicts cartoons, in which case only the name of the facility is permitted.

(2) A registered facility may not transfer any tetrahydrocannabinol-infused product that is meant to be swallowed or inhaled, unless the product is:

- (a) In child-resistant safety packaging; and
- (b) Packaged in a manner that is not attractive to minors.

Stat. Auth.: ORS 475.314

Stats. Implemented: ORS 475.314

333-008-1230

Transfers to a Registered Facility

(1) A patient may authorize usable marijuana or immature marijuana plants to be transferred to a registered facility by signing an Authorization to Transfer form prescribed by the Authority. A patient may authorize transfers to more than one registered facility. A separate form must be provided for each registered facility. The Authorization must include, but is not limited to, the following information:

- (a) The patient's name, OMMP card number and expiration date and contact information;
- (b) The name and contact information of the individual who is authorized to transfer the usable marijuana or immature marijuana plants to the registered facility and that individual's OMMP card number and expiration date;
- (c) The name and address of the registered facility that is authorized to receive the usable marijuana or immature marijuana plants; and
- (d) The date the authorization expires, if earlier than the expiration date of the patient's OMMP card.

(2) Only a patient, the patient's designated primary caregiver, or the patient's grower may be authorized to transfer usable marijuana or immature plants to a registered facility.

(3) The original Authorization to Transfer form must be provided to the registered facility to which a transfer may be made by the patient or person authorized to transfer the usable marijuana or immature plants. The patient should retain a copy of the Authorization to Transfer form for his or her records and provide a copy to the person authorized to transfer the usable marijuana or immature plants.

(4) An Authorization to Transfer form automatically expires on the date the patient's OMMP card expires, unless the patient has specified an earlier expiration date. If the patient renews his or her OMMP card the patient may execute a new Authorization to Transfer form in accordance with this rule.

(5) Once usable marijuana or an immature plant is transferred to a registered facility pursuant to a valid Authorization to Transfer form, the usable marijuana or immature plant is no longer the property of the patient unless the usable marijuana or immature plants are returned by the registered facility.

(6) Prior to a registered facility accepting a transfer of usable marijuana or immature plants the PRF must ensure that:

- (a) It has a valid Authorization to Transfer form on file that authorizes the individual that is transferring the usable marijuana or immature plants to make the transfer; and
- (b) The individual transferring the usable marijuana or immature plants is the individual authorized to make the transfer.

(7) A PRF must ensure that when a registered facility accepts a transfer of usable marijuana or an immature plant the batch of usable marijuana and each immature plant are segregated in accordance with the testing rule, OAR 333-008-1190 and that the following information is documented, as applicable:

- (a) The unique identifier;
- (b) The weight in metric units of all usable marijuana received by the registered facility;
- (c) The number of immature plants received by the registered facility;
- (d) The amount of a finished product received by the registered facility, including, as applicable, the weight in metric units, or the number of units of a finished product;
- (e) A description of the form the usable marijuana was in when it was received, for example, oil or an edible product;
- (f) Who transferred the usable marijuana or the immature plant, the individual's OMMP card number and expiration date of the card, a copy of the individual's picture identification, the date the usable marijuana or an immature plant was received, and the name of the patient who authorized the transfer; and
- (g) The amount of reimbursement paid by the registered facility.

(8) Nothing in these rules requires a PRF or a registered facility to accept a transfer of usable marijuana or immature plants.

(9) A PRF must ensure that:

- (a) From the time that a batch or plant has been received by the registered facility until it is tested in accordance with these rules, the usable marijuana and immature plants are segregated, withheld from use, and kept in a secure location so as to prevent the marijuana or plants from becoming contaminated or losing efficacy, or from being tampered with or transferred except that samples may be removed for testing; and
- (b) No usable marijuana or immature plants are transferred to a patient or designated primary caregiver until testing has been completed, the registered facility has received a written testing report, and the usable marijuana and immature plants have tested negative for pesticides, mold and mildew.

(10) Usable marijuana and immature plants must be kept on-site at the facility. The Authority may cite a PRF for a violation of these rules if during an inspection it cannot account for its inventory or if the amount of flowers or other usable marijuana plant material at the registered facility is not within five percent of the documented inventory.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

333-008-1245

Transfers to a Patient or Designated Primary Caregiver

(1) A registered facility may not transfer a tetrahydrocannabinol-infused product that is manufactured in a manner that is attractive to minors. For purposes of this section a product is considered to be manufactured in a manner that is attractive to minors if it is:

- (a) Brightly colored; or
- (b) In the shape of an animal or any other commercially recognizable toy or candy.

(2) Prior to a registered facility transferring usable marijuana or an immature plant to a patient or a designated primary caregiver the PRF must ensure that:

- (a) The usable marijuana or an immature plant has not tested positive for mold, mildew or pesticides as specified in OAR 333-008-1190; and

Final rules for the Medical Marijuana Dispensary Program
January 28th, 2015

(b) The identity and cardholder status of the person requesting usable marijuana or an immature plant is verified by viewing the person's OMMP card and picture identification and making sure the two match.

(3) The PRF must ensure that for each transfer of usable marijuana or an immature plant to a patient or a designated primary caregiver the following information is documented:

(a) The name, OMMP card number and expiration date of the card of each person to whom the registered facility transfers usable marijuana or an immature plant;

(b) A copy of the person's picture identification;

(c) The amount of usable marijuana transferred in metric units, if applicable;

(d) The number of immature plants transferred, if applicable;

(e) The amount of a finished product transferred in metric units, or units of the finished product, if applicable;

(f) A description of what was transferred;

(g) The date of the transfer; and

(h) The amount of money paid by a patient or a designated primary caregiver to a registered facility for the transfer of usable marijuana or an immature plant.

(4) The PRF must ensure that a registered facility does not transfer at any one time more usable marijuana or immature plants than a patient or designated primary caregiver is permitted to possess under ORS 475.320(1)(a). A PRF is not responsible for determining whether a patient or designated primary caregiver is limited in the amount of usable marijuana he or she can possess under 475.320(1)(b).

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

333-008-1250

Inspections

(1) The Authority must conduct an initial inspection of every registered facility within six months of approving an application to ensure compliance with these rules, and must conduct a routine inspection of every registered facility at least every year.

(2) The Authority may conduct a complaint inspection at any time following the receipt of a complaint that alleges a registered facility is in violation of ORS 475.314 or these rules.

(3) The Authority may conduct an inspection at any time if it believes, for any reason, that a registered facility or a PRF is in violation of ORS 475.314 or these rules.

(4) A PRF and any employees, contractors, or other individuals working at a registered facility must cooperate with the Authority during an inspection.

(5) If an individual at a registered facility fails to permit the Authority to conduct an inspection the Authority may seek an administrative warrant authorizing the inspection pursuant to ORS 431.262.

Stat. Auth.: ORS 431.262, 475.314, 475.338

Stats. Implemented: ORS 431.262, 475.314

333-008-1260

Violations

(1) The following are violations of ORS 475.314 or these rules:

(a) A PRF or an employee of a facility failing to cooperate with an inspection;

- (b) The submission by a PRF, employee, or owner of a facility of false or misleading information to the Authority;
- (c) Transferring usable marijuana or immature plants to an individual who is not a patient or a designated primary caregiver;
- (d) Accepting a transfer of usable marijuana or immature plants without a valid authorization from the patient;
- (e) Possessing a mature marijuana plant at the registered facility;
- (f) Failing to document and maintain information in the manner required by these rules;
- (g) Failing to account for flowers or other usable marijuana plant material in accordance with OAR 333-008-1230(10);
- (h) Failing to submit a plan of correction in accordance with OAR 333-008-1275;
- (i) Failing to comply with an emergency suspension or final order of the Authority, including failing to pay a civil penalty; or
- (j) Failing to comply with ORS 475.314 or any of these rules.

(2) It is a violation of ORS 475.314 and these rules to operate a facility without being registered by the Authority.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

333-008-1275

Enforcement

(1)(a) Informal Enforcement. If, during an inspection the Authority documents violations of ORS 475.314 or any of these rules, the Authority may issue a written Notice of Violation to the PRF that cites the laws alleged to have been violated and the facts supporting the allegations.

(b) The PRF must submit to the Authority a signed plan of correction within 10 business days from the date the Notice of Violation was mailed to the person. A signed plan of correction will not be used by the Authority as an admission of the violations alleged in the Notice.

(c) A PRF must correct all deficiencies within 10 business days from the date of the Notice, unless an extension of time is requested from the Authority. A request for such an extension shall be submitted in writing and must accompany the plan of correction.

(d) The Authority must determine if a written plan of correction is acceptable. If the plan of correction is not acceptable to the Authority it must notify the PRF in writing and request that the plan of correction be modified and resubmitted no later than 10 business days from the date the letter of non-acceptance was mailed.

(e) If the registered facility does not come into compliance by the date of correction reflected on the plan of correction, the Authority may propose to revoke the registration of the facility or impose civil penalties.

(f) The Authority may conduct an inspection at any time to determine whether a registered facility has corrected the deficiencies in a Notice of Violation.

(2) Formal Enforcement. If, during an inspection or based on other information the Authority determines that a registered facility or PRF is in violation of ORS 475.314 or these rules the Authority may issue:

(a) A Notice of Proposed Revocation in accordance with ORS 183.411 through 183.470.

(b) A Notice of Imposition of Civil Penalties in accordance with ORS 183.745. Civil penalties may be issued for any violation of ORS 475.314 and these rules, not to exceed \$500 per violation per day.

- (c) An Order of Emergency Suspension pursuant to ORS 183.430.
- (3) The Authority must determine whether to use the informal or formal enforcement process based on the nature of the alleged violations, whether there are mitigating or aggravating factors, and whether the PRF or the registered facility has a history of violations.
- (4) The Authority must issue a Notice of Proposed Revocation if the:
- (a) Facility no longer meets the criteria in ORS 475.314(3)(a) to (d); or
 - (b) PRF is not a resident of Oregon, has disqualifying criminal convictions as described in OAR 333-008-1120, or a court has issued an order that prohibits the PRF from participating in the OMMP under ORS 475.300 through 475.346 unless a new PRF is approved by the Authority.
- (5) The Authority may maintain a civil action against a facility that is operating but not registered in accordance with ORS 475.314 and these rules.
- (6) The Authority may revoke the registration of a facility for failure to comply with an ordinance adopted by a city or county pursuant to Oregon Laws 2014, chapter 79, section 2, if the city or county:
- (a) Has provided the facility with due process substantially similar to the due process provided to a registration or license holder under the Administrative Procedures Act, ORS 183.413 to 183.470; and
 - (b) Provides the Authority with a final order that is substantially similar to the requirements for a final order under ORS 183.470 that establishes the facility is in violation of the local ordinance.
- (7) The Authority must post a final order revoking the registration of a facility on the Authority's website and provide a copy of the final order to the OMMP.
- (8) To the extent permitted by law, if the Authority discovers violations that may constitute criminal conduct or conduct that is in violation of laws within the jurisdiction of other state or local governmental entities, the Authority may refer the matter to the applicable agency.
- (9) If the registration of a facility is revoked the PRF must make arrangements to return the usable marijuana and immature plants in amounts still possessed by the facility, to the person who transferred the usable marijuana or immature plants and must document the same.
- (10) The Authority is not required to accept the surrender of a registration and may proceed with an enforcement action even if a PRF has surrendered the facility's registration.
- Stat. Auth.: ORS 431.262, 475.314 & 475.338
Stats. Implemented: ORS 431.262 & 475.314

333-008-1280

Confidentiality

- (1) Any criminal background information received by the Authority about a PRF during the criminal background check process is confidential and is not subject to disclosure without a court order.
- (2) The name of a PRF and the address of a registered facility is confidential and is not subject to disclosure without a court order, except as provided in ORS 475.331(2) and section (5) of this rule, or unless a PRF has authorized disclosure.
- (3) If an application has been denied, the information submitted to the Authority in an application for registration of a facility is not confidential and may be subject to disclosure under ORS 192.410 through 192.505.
- (4) A final order revoking the registration of a facility is not confidential and may be posted on the Authority's website or otherwise made public by the Authority.

(5) Authorized employees of state and local law enforcement agencies may verify with the Authority at all times whether:

- (a) A location is the location of a registered facility; or
- (b) A person is listed as the PRF of a registered facility.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314, 475.331

333-008-1290

Change of Location

(1) A registered facility that changes location must submit a new application that complies with OAR 333-008-1020.

(2) A facility may not operate at a new location unless it is registered by the Authority.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

333-008-1400

Moratoriums

(1) For purposes of this rule, “moratorium” means an ordinance, adopted by the governing body of a city or county by May 1, 2014, that specifically suspends the operation of registered medical marijuana facilities within the area subject to the jurisdiction of the city or county, for a period of time that does not extend past May 1, 2015.

(2) If a city or county adopts a moratorium it must notify the Authority and provide a copy of the ordinance.

(3) An applicant applying for registration of a facility proposing to operate in an area subject to a moratorium may submit a request, in writing, to withdraw the application and may request a refund of the fees.

(4) A PRF of a registered facility located in an area subject to a moratorium may submit a request, in writing, to surrender its registration and request a refund of the fees.

(5) Upon receipt of a request to withdraw an application or surrender a registration under sections (3) or (4) of this rule the Authority shall determine whether the ordinance falls within the definition of moratorium and inform the applicant or PRF in writing whether:

- (a) The application is considered withdrawn and the fees refunded; or
- (b) The registration has been surrendered and the fees refunded.

(6) The Authority may refund all fees, including the non-refundable registration fee.

(7) Notifications or requests described in sections (2) to (4) of this rule may be submitted to the Authority:

(a) By mail at P.O. Box 14116, Portland, OR 97293; or

(b) By electronic mail to medmj.dispensaries@state.or.us.

Stat. Auth.: Oregon Laws 2014, Chapter 79, Section 3

Stats. Implemented: Oregon Laws 2014, Chapter 79, Section 3

333-008-1190**Appendix A****Mold and Mildew limits for cannabis products (CFU/g)**

	Total yeast and mold (mold and mildew)
Unprocessed materials*	10^4
Processed materials*	10^4
CO₂ and solvent based extracts	10^3

*Unprocessed materials include minimally processed crude cannabis preparations such as inflorescences, accumulated resin glands (kief), and compressed resin glands (hashish). Processed materials include various solid or liquid infused edible preparations, oils, topical preparations, and water-processed resin glands (“bubble hash”).

Source: American Herbal Pharmacopoeia Monograph, December 18th, 2013

Oregon Medical Marijuana Program rules

333-008-0010

Definitions

For the purposes of OAR 333-008-0000 through 333-008-0120, the following definitions apply:

- (1) "Act" means the Oregon Medical Marijuana Act.
- (2) "Applicant" means a person applying for an Oregon Medical Marijuana registry identification card on a form prescribed by the Authority.
- (3) "Attending physician" means a Doctor of Medicine (MD) or Doctor of Osteopathy (DO), licensed under ORS chapter 677, who has primary responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.
- (4) "Authority" means the Oregon Health Authority.
- (5) "Debilitating medical condition" means:
 - (a) Cancer, glaucoma, agitation incident to Alzheimer's disease, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, or a side effect related to the treatment of these medical conditions;
 - (b) A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:
 - (A) Cachexia;
 - (B) Severe pain;
 - (C) Severe nausea;
 - (D) Seizures, including but not limited to seizures caused by epilepsy; or
 - (E) Persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis;
 - (c) Post-traumatic stress disorder; or
 - (d) Any other medical condition or side effect related to the treatment of a medical condition adopted by the Authority by rule or approved by the Authority pursuant to a petition submitted under OAR 333-008-0090.
- (6) "Delivery" means the actual, constructive or attempted transfer, other than by administering or dispensing, from one person to another of a controlled substance, whether or not there is an agency relationship, but does not include transfer of marijuana from one patient to another patient if no consideration is paid for the transfer.
- (7) "Designated primary caregiver" means an individual 18 years of age or older who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is designated as such on that person's application for a registry identification card or in other written notification to the Authority. "Designated primary caregiver" does not include the person's attending physician.
- (8) "Food stamps" means the Supplemental Nutrition Assistance Program as defined and governed by ORS 411.806 through 411.845.
- (9) "Grow site" means a specific location registered by the Authority used by the grower to produce marijuana for medical use by a specific patient.
- (10) "Grow site registration card" means the card issued to the patient and displayed at the grow site.
- (11) "Grower" has the same meaning as "person responsible for a marijuana grow site."
- (12) "Immature plant" has the same meaning as "seedling or start."
- (13) "Marijuana" means all parts of the plant Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin. It does not include the mature stalks

Final rules for the Medical Marijuana Dispensary Program
January 28th, 2015

of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(14) “Mature plant” means a marijuana plant that does not fall within the definition of a seedling or a start.

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

(16) “Medical use of marijuana” means the production, possession, delivery, or administration of marijuana, or paraphernalia used to administer marijuana, as necessary for the exclusive benefit of a person to mitigate the symptoms or effects of his or her debilitating medical condition.

(17) “Oregon Health Plan (OHP)” means the medical assistance program administered by the Authority under ORS chapter 414.

(18) “OMMP” refers to the office within the Authority that administers the provisions of the OMMA, and all policies and procedures pertaining thereto, as set forth in these rules.

(19) “Parent or legal guardian” means the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age.

(20) “Patient” has the same meaning as “registry identification cardholder.”

(21) “Person responsible for a marijuana grow site” means a person who has been selected by a patient to produce medical marijuana for the patient, and who has been registered by the Authority for this purpose.

(22) “Person responsible for a medical marijuana facility” has the meaning given that term in OAR 333-008-1010.

(23) “Primary responsibility” as that term is used in relation to an attending physician means that the physician:

(a) Provides primary health care to the patient; or

(b) Provides medical specialty care and treatment to the patient as recognized by the American Board of Medical Specialties; or

(c) Is a consultant who has been asked to examine and treat the patient by the patient's primary care physician licensed under ORS chapter 677, the patient's physician assistant licensed under ORS chapter 677, or the patient's nurse practitioner licensed under ORS chapter 678; and,

(d) Has reviewed a patient's medical records at the patient's request and has conducted a thorough physical examination of the patient, has provided or planned follow-up care, and has documented these activities in the patient's medical record.

(24) “Production” includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(25) “Registry identification card” means a document issued by the Authority that identifies a person authorized to engage in the medical use of marijuana, and the person's designated primary caregiver, if any.

(26) “Registry identification cardholder” means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Authority.

(27) “Replacement registry identification card” means a new card issued in the event that a registry identification cardholder's card, designated primary caregiver identification card, grower

Final rules for the Medical Marijuana Dispensary Program
January 28th, 2015

identification card, or grow site registration card is lost or stolen, or if a registry identification cardholder's designation of primary caregiver, grower, or grow site has changed.

(28) "Seedling or start" means a marijuana plant that has no flowers, is less than 12 inches in height, and less than 12 inches in diameter. A seedling or start that does not meet all three criteria shall be considered a mature plant.

(29) "Supplemental Security Income (SSI)" means the monthly benefit assistance program administered by the federal government for persons who are age 65 or older, or blind, or disabled and who have limited income and financial resources.

(30) "Usable marijuana" means the dried leaves and flowers of the plant Cannabis family Moraceae and any mixture or preparation thereof, that are appropriate for medical use. "Usable marijuana" does not include the seeds, stalks and roots of the plant.

(31) "Written documentation" means a statement signed and dated by the attending physician of a person diagnosed with a debilitating medical condition or copies of the person's relevant medical records, maintained in accordance with standard medical record practices.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

333-008-0020

New Registration Application and Verification

(1) A person may apply for a registry identification card on forms prescribed by the Authority. In order for an application to be considered complete, an applicant must submit the following:

(a) An application form signed and dated by the applicant;

(b) Copies of legible and valid U.S. state or federal issued photographic identification that includes last name, first name, and date of birth from the applicant, the designated primary caregiver, and grower, as applicable. Acceptable forms of current U.S. state or federal issued photographic identification include but are not limited to:

(A) Driver's license;

(B) State identification card;

(C) Passport; or

(D) Military identification card.

(c) Written documentation, which may consist of relevant portions of the applicant's medical record, signed by the applicant's attending physician within 90 days of the date of receipt by the Authority, which describes the applicant's debilitating medical condition and states that the use of marijuana may mitigate the symptoms or effects of the applicant's debilitating medical condition;

(d) If applicable, a completed and notarized "Declaration of Person Responsible for Minor" form for any person under 18 years of age, signed and dated by the person responsible for the minor;

(e) The name of a designated primary caregiver, if any;

(f) The name of a designated grower (either the patient or another person), if any and the location of the grow site; and

(g) An application fee and grow site registration fee, if applicable, in the form of cash, bank check, money order, or personal check.

(2) The Authority shall process an application prior to issuing registry identification cards to assure that the application is complete and information provided has been verified.

(a) The Authority shall only accept applications that are mailed or are hand-delivered.

Final rules for the Medical Marijuana Dispensary Program
January 28th, 2015

(b) If an applicant does not provide all the information required and the application is considered incomplete, the Authority shall notify the applicant of the information that is missing, and shall allow the applicant 14 days to submit the missing information.

(c) If an applicant does not provide the information necessary to declare an application complete, or to complete the verification process within the timelines established in subsections (2)(b) and (3)(e) of this rule, the application shall be rejected as incomplete. An applicant whose application is rejected as incomplete may reapply at any time. If an applicant submits an application fee and the application is subsequently denied or rejected, the application fee may be applied toward a new application submitted within one year of the denial or rejection date.

(d) The Authority may reject an application if the application or supporting documents appear to be altered (for example, writing is whited out). An application shall be denied in accordance with OAR 333-008-0030 if an application or supporting documents are determined to have been falsified.

(e) The Authority may verify information on each application and accompanying documentation, including:

(A) Contacting each applicant by telephone or by mail. If proof of identity is uncertain, the Authority may require a face-to-face meeting and may require the production of additional identification materials;

(B) Contacting a minor's parent or legal guardian;

(C) Contacting the Oregon Medical Board to verify that an attending physician is licensed to practice in the state and is in good standing;

(D) Contacting the attending physician to request further documentation to support a finding that the physician is the applicant's attending physician. The Authority shall notify the applicant of the intent to review the medical records and request the applicant's authorization to conduct the review. Failure to authorize a review of medical records may result in the application being declared incomplete, or denial of an application. If the Authority is unable to verify that the applicant's attending physician meets the definition under OAR 333-008-0010(3) the applicant will be allowed 30 days to submit written documentation or a new attending physician's declaration from a physician meeting the requirements of these rules. Failure to submit the required attending physician documentation is grounds for denial under ORS 475.309 and OAR 333-008-0030;

(E) Contacting the Division of Medical Assistance Programs, Department of Human Services-Self Sufficiency, or the Social Security Administration (SSA) to verify eligibility for benefits; and

(F) Conducting a criminal records check under ORS 181.534 of any person whose name is submitted as a grower.

(3) Application fees.

(a) A non-refundable application fee of \$200 is required at the time of application.

(b) If applicable as specified in OAR 333-008-0025, a non-refundable grow site registration fee of \$50 is required at the time of application.

(c) An applicant who can demonstrate current receipt of SSI benefits, current eligibility for OHP benefits or current receipt of food stamp benefits through the Oregon SNAP program qualifies for a reduced non-refundable application fee.

(A) An applicant demonstrating receipt of SSI benefits by providing a copy of a current monthly SSI benefit card showing dates of coverage is entitled to a reduced application fee of \$20.

(B) An applicant demonstrating current eligibility for OHP benefits by providing a copy of the applicant's current eligibility statement is entitled to a reduced application fee of \$50.

(C) An applicant demonstrating receipt of current food stamp benefits, verified by enrollment in Oregon's Food Stamp Management Information System database system and by providing current proof of his or her food stamp benefits, is entitled to a reduced application fee of \$60.

(D) An applicant who falls within one of the categories listed in subparagraph (i) or (ii) of this paragraph and who provides a copy of the applicable determination from the United States Department of Veteran's Affairs (VA), is entitled to a reduced application fee of \$20:

(i) Receives service-connected compensation from the VA based on a finding by the VA of 100% service-connected disability; or

(ii) Receives a needs-based pension from the VA based on a finding by the VA of non-service connected disability.

(d) The Authority shall place a 10-day hold on the issuance of a registry identification card for an application accompanied by a personal check. Upon receipt by the Authority of a notice of non-sufficient funds (NSF) or stop payment, an applicant will be allowed 14 days to submit payment in the form of a bank check or cash. Application fees paid in the form of cash must be hand-delivered. Applicants are advised not to make payments in cash through the United States mail or private delivery services. The Authority will not accept responsibility for payments of cash that are lost in the mail or stolen in transit.

(e) The Authority shall notify an applicant who submits a reduced application fee for which the applicant is not eligible and will allow the applicant 14 days from the date of notice to pay the correct application fee and submit a current valid proof of eligibility.

(4) The application forms referenced in this rule may be obtained by contacting the Oregon Medical Marijuana Program (OMMP) at PO Box 14450, Portland, OR 97293-0450 or by calling 971-673-1234.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

333-008-0025

Marijuana Grow Site Registration

(1) A patient may register a marijuana grow site with the Authority. The address of a medical marijuana facility may not be listed by a patient on the grow site application as the location of the marijuana grow site. The Authority will register only one grow site per patient, and will only register grow sites in Oregon.

(2) To register a marijuana grow site, an applicant or patient must submit to the Authority an application, prescribed by the Authority, that includes:

(a) The name of the grower;

(b) The date of birth of the grower;

(c) The physical address of the marijuana grow site where marijuana is to be produced;

(d) The mailing address of the grower;

(e) The registry identification card number of the patient, if known, for whom the marijuana is being produced; and

(f) A non-refundable grow site registration fee of \$50 in the form of cash, bank check, money order, or personal check. If the grower is the applicant, he or she is not required to pay the grow site registration fee. The Authority shall place a 10-day hold on the issuance of a registry identification card for an application accompanied by a personal check. Upon receipt by the

Final rules for the Medical Marijuana Dispensary Program
January 28th, 2015

Authority of a notice of non-sufficient funds (NSF) or stop payment, an applicant will be allowed 14 days to submit payment in the form of a bank check or cash. Application fees paid in the form of cash must be hand-delivered. Applicants are advised not to make payments in cash through the United States mail or private delivery services. The Authority will not accept responsibility for payments of cash that are lost in the mail or stolen in transit.

(3) The Authority shall conduct a criminal background check on the grower as authorized under ORS 475.304.

(a) A person convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, if the offense occurred on or after January 1, 2006, may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder for five years from the date of conviction.

(b) A person convicted more than once of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, if the offenses occurred after January 1, 2006, may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder.

(c) The Authority shall notify a patient by certified mail that the grower is ineligible and the patient will be allowed the opportunity to identify another grower.

(4) The Authority shall issue a marijuana grow site registration card to a patient who has met the requirements of section (2) of this rule, unless the grower is disqualified under section (3) of this rule.

(5) A grower must display a marijuana grow site registration card for each patient for whom marijuana is being produced, at the marijuana grow site at all times.

(6) All usable marijuana, plants, seedlings and seeds, associated with the production of marijuana for a patient by a grower, are the property of the patient and must be provided to the patient, or, if the marijuana is usable marijuana or an immature marijuana plant, transferred to a registered medical marijuana facility, upon request.

(7) All marijuana produced for a patient must be provided to the patient or designated primary caregiver when the grower ceases producing marijuana for the patient.

(8) A grower must return the grow site registration card to the patient to whom the card was issued when requested to do so by the patient or when the grower ceases producing marijuana for the patient.

(9) A patient or the designated primary caregiver of the patient may reimburse the grower for the costs of supplies and utilities associated with production of marijuana for patient. No other costs associated with the production of marijuana for the patient, including the cost of labor, may be reimbursed.

(10) A grower may produce marijuana for no more than four patients or designated primary caregivers concurrently.

(11) The Authority may not register a grow site if the location of the grow site is the same location as a medical marijuana facility.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

333-008-0045**Interim Changes**

- (1) A patient shall notify the Authority within 30 calendar days of any change in the patient's name, address, telephone number, attending physician, designated primary caregiver, grower or grow site address.
- (2) A patient shall notify, as applicable, the designated primary caregiver, the grower, and the person responsible for a medical marijuana facility of any changes in status including, but not limited to:
 - (a) The assignment of another individual as the designated primary caregiver for the patient;
 - (b) The assignment of another individual as a grower for the patient;
 - (c) The revocation of an Authorization to Transfer form under OAR 333-008-1230; or
 - (d) The end of eligibility of the patient to hold a registry identification card.
- (3) If the Authority is notified by the patient that a designated primary caregiver or a grower has changed, the Authority shall notify the designated primary caregiver or the grower by mail at the address of record confirming the change in status and informing the caregiver or grower that their card is no longer valid and must be returned to the Authority within seven calendar days.
- (4) A patient who has been diagnosed by an attending physician as no longer having a debilitating medical condition or whose attending physician has determined that the medical use of marijuana is contraindicated for the patient's debilitating medical condition shall return the registry identification card and all associated OMMP cards to the Authority within 30 calendar days of notification of the diagnosis or notification of the contraindication. If, due to circumstances beyond control of the patient he or she is unable to obtain a second medical opinion about the patient's continuing eligibility to use medical marijuana before the 30-day period has expired, the Authority may grant the patient additional time to obtain a second opinion before requiring the patient to return the registry identification card and all associated cards.
- (5) Change forms may only be submitted to the Authority via mail or in person at the OMMP office.
- (6) If a patient's designated primary caregiver, grower or grow site has changed, the non-refundable fee to receive a replacement card is \$100. If the patient qualifies for the reduced application fee of \$20, the non-refundable fee to receive a replacement card is \$20.
- (7) If a patient is registering a new grow site at any time other than when submitting a new application or a renewal application, a grow site registration fee will not be charged.

Stat. Auth.: ORS 475.309 & 475.312

Stats. Implemented: ORS 475.309 & 475.312

333-008-0050**Confidentiality**

- (1) The Authority shall create and maintain either paper or computer data files of patients, designated primary caregivers, growers, and grow site addresses. The data files shall include all information collected on the application forms or equivalent information from other written documentation, plus a copy of OMMP registry identification cards, effective date, date of issue, and expiration date. Except as provided in section (2) of this rule, the names and identifying information of registry identification cardholders and the name and identifying information of a pending applicant for a card, a designated primary caregiver, a grower, and a marijuana grow site location, shall be confidential and not subject to public disclosure.

(2) Names and other identifying information made confidential under section (1) of this rule may be released to:

- (a) Authorized employees of the Authority as necessary to perform official duties of the Authority, including the production of any reports of aggregate (i.e., non-identifying) data or statistics;
- (b) Authorized employees of state or local law enforcement agencies when they provide a specific name or address. Information will be supplied only as necessary to verify:
 - (A) That a person is or was a lawful possessor of a registry identification card;
 - (B) That a person is or was a person responsible for a registered medical marijuana facility;
 - (C) That the address is or was a documented grow site, and how many people are authorized to grow at that grow site;
 - (D) How many people a person was or is authorized to grow for; or
 - (E) That an address is or was the location of a registered medical marijuana facility.
- (c) Other persons (such as, but not limited to, employers, lawyers, family members) upon receipt of a properly executed release of information signed by the patient, the patient's parent or legal guardian, designated primary caregiver or grower. The release of information must specify what information the Authority is authorized to release and to whom.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

333-008-0120

System to Allow Verification of Data at All Times

- (1) The Authority shall establish an interactive method to allow authorized employees of state and local law enforcement agencies to use the Oregon State Police Law Enforcement Data System (LEDS) to query an OMMP data file in order to verify at any time whether a particular patient, designated primary caregiver, grower, person responsible for a medical marijuana facility, grow site location, or medical marijuana facility is listed or registered with the Authority.
- (2) LEDS access will only allow a yes or no answer to the query and the information obtained may not be used for any other purpose other than verification.
- (3) The Authority may allow the release of reports related to verification if it is without identifying data.
- (4) The Authority shall have staff available by phone to verify law enforcement agency employee questions during regular business hours in case the electronic verification system is down, and in the event the system is expected to be down for more than two business days, the Authority shall ensure program staff are available by phone for verification purposes.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 – 475.346