

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Policy Session Worksheet

Presentation Date: Sept 9, 2015 **Approx Start Time:** 9:30 am **Approx Length:** 90 min.

Presentation Title: Marijuana Land Use Regulations

Department: Department of Transportation & Development -- Planning and Zoning Division

Presenters: Mike McCallister, Planning Director
Jennifer Hughes, Principal Planner
Nate Boderman, Assistant County Counsel

Other Invitees: Barb Cartmill, DTD Director; Dan Johnson, DTD Assistant Director –
Development; Dan Chandler, Strategic Policy Administrator; Ellen Rogalin,
Community Relations Specialist

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Staff requests direction from the Board of County Commissioners on what options it would like to keep open regarding land use regulations for the production, processing, wholesaling and retailing of marijuana. With that information, staff will be able to proceed to draft and mail required property owner notices of land use public hearings.

EXECUTIVE SUMMARY

I. BACKGROUND

On July 1, 2015, recreational marijuana became legal for personal use in Oregon. On Jan 4, 2016, the Oregon Liquor Control Commission (OLCC) is scheduled to begin receiving license applications to produce, process, wholesale and retail recreational marijuana.

County Action To-Date

In July 2015 the Board initiated amendments to the Zoning and Development Ordinance (ZDO) to consider marijuana-related land use regulations and directed staff to form a stakeholder task force to advise the Board, Planning Commission and staff on policy issues related to the development of the land use regulations.

Advisory Task Force: The 12-member task force, made up of representatives from industry, prevention, the Planning Commission and law enforcement (Attachment A), met August 12, 19 and 26. The group was presented information about and discussed a variety of land use issues, including the following:

- current marijuana land use-related state laws and state and county regulations,
- land use impacts of the marijuana industry and mitigation options,
- how various aspects of the industry work,
- potential impacts on the community and public health, and
- policy issues, including:
 - whether marijuana should be treated differently than any other land use;
 - whether growing marijuana should be permitted as a farm use in rural areas of the county, including Agriculture / Forest, Timber and Rural Residential zones;

- whether marijuana growing and processing facilities should be treated like other growing and processing facilities (e.g., hydroponic tomatoes, orchids) that are allowed in industrial zoning districts, and
- whether the county should consider revising the marijuana time, place and manner ordinance that was adopted in April 2015.

Summaries of the three meetings are attached (Attachments B, C and D). Meeting agenda, audio recordings and handouts are available at www.clackamas.us/planning/marijuana.html.

Board and Planning Commission Meetings: The Planning Commission has met twice in the past few weeks to discuss marijuana land use issues – once with the Board and once on their own.

- On July 27, 2015 the Board and Planning Commission held a joint study session. After receiving an update from staff, the commissioners discussed three major policy issues:
 - The pros and cons of the county choosing to “opt out” of allowing marijuana businesses in the county;
 - Whether marijuana should be permitted as a farm use, and
 - Whether marijuana should be treated like other growing and processing facilities in industrial zoning districts.
- On August 24, 2015, the Planning Commission held a study session on marijuana land use regulations to learn more about the law and land use options for the county.

II. NEXT STEPS AND REQUIRED ACTIONS

The Planning Commission is scheduled to hold its first public hearing on the draft marijuana land use regulations on Oct. 26, 2015. Oregon law requires that notice be mailed to affected property owners at least 20 days prior to a hearing if the proposed regulations have the potential to *limit or prohibit land uses* previously allowed.

This could be case with the draft marijuana land use regulations *if* the Board wants to *consider* limiting or prohibiting *medical* marijuana land use in zoning districts in which they are currently allowed because growing and processing medical marijuana has been permitted in a number of zoning districts since passage of the Oregon Medical Marijuana Act in 1998, and retail dispensaries have been permitted in Oregon since 2014.

We are not required to send out property owner notice of limits or prohibitions on recreational marijuana land uses because, with the exception of recreational marijuana retail sales at approved medical marijuana dispensaries, commercial recreational marijuana land uses will not be allowed until 2016. That means there is no issue of limiting or prohibiting land uses previously or currently allowed.

III. POLICY CONSIDERATIONS

Staff suggests the Board consider key policy questions including whether the Board wants to have an option to do any of the following.

1. Prohibit or limit growing medical marijuana in EFU, AG/F, TBR and rural residential zoning districts, including:
 - Prohibiting growing in some rural residential districts and not others;
 - Adopting objective development standards for growing medical marijuana, or
 - Adopting discretionary approval criteria and requiring review through a home occupation permit, conditional use permit or other land use application.

2. Prohibit or limit processing medical marijuana in EFU, AG/F and rural residential districts; (currently processing requires a conditional use permit [Type III] in the RRF-5 and FF-10 zoning districts and is prohibited in other rural residential districts; processing of farm crops is allowed through a Type II or Type III review process in EFU and AG/F zoning districts and prohibited in the TBR zoning district)
3. Prohibit or limit growing, processing and wholesaling medical marijuana in urban and rural industrial districts, which could include minimum separation distances between these uses;
4. Adopt regulations for growing medical marijuana and processing in EFU zoning districts(i.e., reasonable regulations, prohibit in AG/F and TBR or allow as per other farm uses), and
5. Prohibit or limit growing and processing medical marijuana in urban low-density residential districts (currently this use may be permitted as a home occupation [growing or processing] or produce stand [growing]).

If the Board is interested in considering any of the above options, then the county will be required to mail a notice to up to 50,000 affected property owners in late September. The number would be reduced if the Board decided not to consider new restrictions on medical marijuana uses in one or more zoning districts.

FINANCIAL IMPLICATIONS (current year and ongoing):

The cost of printing and mailing the notice to 50,000 property owners is estimated to be approximately \$25,000. Program work for drafting, consideration and implementation of marijuana land use regulations will be completed by Planning and Zoning staff with support from Public and Government Affairs staff and County Counsel.

LEGAL/POLICY REQUIREMENTS:

Oregon Revised Statutes 215.503 establishes the requirements for property owner notice in the case of new land use regulations.

Legislative action is needed to consider amendments to the ZDO to address marijuana land uses. Type IV legislative land use proposals are subject to ZDO Section 1307 and Oregon Revised Statutes Chapters 197 and 215.

The County’s policy discretion to amend the Comprehensive Plan and ZDO to address marijuana land uses is subject to the Statewide Planning Goals, Metro Functional Plan (inside the Metropolitan Service District) and land use regulations embedded in Oregon law for recreational and medical marijuana, primarily Ballot Measure 91 (2014) and the Oregon Medical Marijuana Act, as amended by House Bill 3400 (2015).

HB 3400 in some regards is restrictive and limits the County’s regulatory authority (e.g., growing marijuana in Exclusive Farm Use districts is permitted) and in other cases is silent on many issues and provides the County with broad policy discretion.

PUBLIC/GOVERNMENTAL PARTICIPATION:

Public notice and outreach will be completed consistent with any other legislative amendment. Public hearings are required before the Planning Commission and the Board, and several types of public notice are provided (e.g., property owner, newspaper, website, community planning organizations/hamlets/villages, cities in the county, other interested parties). Staff has already begun communicating about this project with community planning organizations/hamlets/villages

and cities in the county. In addition, information about the process of developing regulations related to marijuana land use has been shared in Citizen News, in social media and online at www.clackamas.us/planning/marijuana.html.

OPTIONS:

1. Direct staff to provide individual notice to property owners in urban low density residential districts, rural residential districts, industrial districts and natural resource districts so the Board has broad discretion to prohibit or limit the growing and processing of marijuana in these areas.
2. Direct staff to provide individual notice to property owners in one or more of the zoning districts listed in Option 1.
3. Direct staff to not provide individual notice to property owners.

RECOMMENDATION:

Staff recommends the Board direct staff to proceed with Option 1 above -- to provide individual notice to property owners in urban low density residential districts, rural residential districts, industrial districts and natural resource districts so the Board has broad discretion to prohibit or limit the growing and processing of marijuana in these areas. This will provide the Board with broad discretion to determine the appropriate location, standards, criteria and review procedures for siting medical marijuana grow, processing and wholesale facilities.

Attachments:

- A. Marijuana Land Use Task Force membership list
- B. Marijuana Land Use Task Force Meeting Summary, August 12, 2015
- C. Marijuana Land Use Task Force Meeting Summary, August 19, 2015
- D. Marijuana Land Use Task Force meeting Summary, August 26, 2015

SUBMITTED BY:

Division Director/Head Approval _____

Department Director/Head Approval _____

County Administrator Approval _____

For information on this issue or copies of attachments, please contact Mike McCallister at 503-742-4522.
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Marijuana Land Use Task Force

Industry Representatives

Amy Margolis	Emerge Law Group
Matt Wallstater	Retailer
Mario Mamone	Maritime Café
Gerrick Latta	

Prevention

Sarah Present, MD	County Public Health Officer
Shirley Morgan	Community Activist

CPOs/Hamlets/Villages

Gabi Carnivali	Estacada CPO
Joe Mazzara	Villages at Mt. Hood
Bob Reeves	Villages at Mt. Hood

Planning Commission

Norm Andreen	Planning Commissioner
Brian Pasko	Planning Commissioner

Law Enforcement

Lt. Jeff Davis	CCSO Drug Task Force
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Clackamas County

Ellen Rogalin	Public & Government Affairs
Jennifer Hughes	Planning & Zoning
Mike McCallister	Planning Director
Nate Boderman	County Counsel
Dan Chandler	Administration
Darcy Renhard	Planning & Zoning
Ernest Hayes	Board of County Commissioners



Marijuana Land Use Advisory Task Force

Summary of Meeting #1

August 12, 2015, 6:30-8:30 p.m.; Development Services Building Auditorium

Attendance

Task Force Members: Amy Margolis, Emerge Law Group; Matt Wallstater, retailer; Mario Mamone, Maritime Café; Gerrick Latta, producer; Dr. Sarah Present, county public health officer; Shirley Morgan, community activist; Gabi Carnivali, Estacada CPO; Joe Mazzara, Villages at Mt. Hood; Bob Reeves, Villages at Mt. Hood; Norm Andreen, Planning Commission; Brian Pasko, Planning Commission; Lt. Jeff Davis, Clackamas County Sheriff's Office

County Staff: Mike McCallister, Planning Director; Jennifer Hughes, Principal Planner; Nate Boderman, County Counsel; Dan Chandler, Administration; Ernest Hayes, Board of County Commissioners; Ellen Rogalin, Public & Government Affairs; Darcy Renhard, Planning & Zoning Division

WELCOME/INTRODUCTIONS

Mike McCallister welcomed everyone, asked task force members to introduce themselves and introduced county staff members. Audio recordings and notes of the meetings will be posted on the county website at www.clackamas.us/planning/marijuana.

The task force was authorized by the Board of County Commissioners to discuss issues related to reasonable, responsible land use regulations related to marijuana land use in Clackamas County. Task force members represent various components of the marijuana industry, the community, public health and the County Planning Commission.

PROCESS FOR ADOPTING NEW AND AMENDED REGULATIONS

Mike explained that there is a process required in order for the county to adopt any zoning amendments or regulations, based on state law and county code.

- Amendments can be initiated by the Planning Commission, the Board of County Commissioners (BCC) and the Planning Director. In this case the ordinance has been initiated by the Board of County Commissioners.
- New ordinances and amendments are drafted by staff and then sent to the Oregon Department of Land Conservation and Development (DLCD) for review at least 35 days before the first Planning Commission hearing on the ordinance.
- Draft ordinances are also sent to cities in the county, CPOs/Hamlets/Villages, and affected and adjacent land owners.
- The Planning Commission holds public hearings on new ordinances and amendments, and then develops recommendations for the BCC.
- The BCC receives the entire record from the Planning Commission hearings, as well as the recommendation, and then holds its own public hearing, before taking final action. In this case, the intent is for the BCC to take final action in December 2015 so any new regulations will be in place when the Oregon Liquor Control Commission begins issuing marijuana licenses in January 2016.

MARIJUANA FACILITIES AND LAND USE ZONING IN CLACKAMAS COUNTY

Jennifer Hughes reviewed the current and potential regulation of licensed marijuana facilities in different zoning districts, based on the handout Marijuana Facilities and Land Use Zoning in Clackamas County. Six types of licenses are listed – recreational grow/production, processing, wholesaling and retail/dispensary; and medical processing and retail/dispensary – with the current and potential legal status noted in each of nine zone categories –

1. EFU (natural resource);
2. TBR, AG/F (natural resource);
3. RR, RA-1, RA-2, RRF-5, FF10, FU-10 (rural residential);
4. Rural Commercial/Rural Tourist Commercial;
5. Rural Industrial;
6. Urban and Mt. Hood Low-Density Residential;
7. Urban and Mt. Hood Multi-family Residential;
8. Urban Industrial, and
9. Urban Commercial.

Jennifer noted that there are differences in how medical and recreational marijuana can be regulated; for example, medical marijuana is not considered a farm use, while recreational marijuana is. Medical marijuana is regulated by the Oregon Health Authority (OHA); recreational marijuana is regulated by the Oregon Liquor Control Commission (OLCC).

Jennifer reviewed the land use-related provisions in Oregon House Bill 3400 (HB 3400), which was adopted this year to amend Ballot Measure 91 (the Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act) and the Oregon Medical Marijuana Act (Oregon Revised Statutes [ORS] 475.300 – 475.346). The law allows the county to set reasonable regulations and limitations.

IMPACT OF MARIJUANA LAND USE

Mike asked task force members to brainstorm the impacts of marijuana land use. Comments included the following:

- Problems with children getting access to marijuana; preventing sales to underage children
- Safety – need information on location and content of marijuana operations, especially processing operations, for fire departments
- Zoning issue for Planning Commission
- Public safety/crime – burglaries and that sort of thing
- Need better understanding of relationship between medical marijuana and health
- Odors
- Property value
- Lighting/light pollution
- Security (for people in the industry, as well as others)
- Access to children and youth
- Normalization of marijuana use
- Social equity
- Environmental impacts – biomass production, energy, water use, etc.
- Quality of life
- Traffic
- Job creation
- Tax revenue
- Add businesses to currently vacant land

Other comments/questions included the following:

- I'd appreciate more information about what's involved with processing
- Growers and processors want support and good relationships with fire departments, public health, law enforcement and others, but are concerned about confidentiality for the sake of security and public safety.
- Land use should not be used in a punitive fashion; it should provide reasonable time/place/manner restrictions.
- Marijuana doesn't bring crime to a community; a retail facility actually results in less crime in a neighborhood.
- We already have time/place/manner guidelines in our land use regulations; why do we need more for marijuana?
- How will federal housing be affected?
- It would be helpful to know how about size of various marijuana facilities – what is needed at a minimum, what's the maximum, etc.
- There aren't enough law enforcement resources in eastern Clackamas County for marijuana growers to develop relationships with
- What mitigation measures are possible?
- This is a federal illegal drug and can be trafficked out of state.
- There are very few outdoor grows in Clackamas County (because of the climate, soil and mold problems), and there's a big different between indoor and outdoor grows.

MAJOR LAND USE POLICY ISSUES

Mike said staff has identified three initial policy issues:

- Permitted farm use (growing and processing) in rural areas? In rural residential zones?
- Permitted growing and processing in urban and rural industrial zones? Too much land use potentially taken up by marijuana?
- Revisit current county ordinance on time/place/manner – no retail outside the metro Urban Growth Boundary; standards on buffers, etc.)?

Other policy issues and comments raised by task force members include:

- Should Clackamas County treat marijuana differently than other agricultural products and, if so, what's the reasonable justification?
- How will recreational facilities be incorporated into the medical facilities time/place/manner ordinance? [Mike pointed out that the current ordinance already also applies to recreational facilities, though it might have to be amended because it's more restrictive than HB 3400 for recreational facilities.]
- We want to regulate intelligently so that people will be able to succeed, and be safe, secure and compliant, and be able to compete with the illegal market
- "Good neighbor" policies
- The biggest struggle is what to do in rural residential areas – there are already hundreds of people growing marijuana in those areas now.
- We've had a pattern where someone starts a land use, someone else complains and then the land owner applies for conditional use. Should there be a policy that there's no presumption of previous activity?
- Would like to reward legitimate, responsible players.
- Need to treat people fairly, including those who are already in the business.
- There are lots of fear-based concerns.

- Who will enforce marijuana regulations? [The Sheriff's Office will deal with criminal issues; civil issues will be dealt with by code enforcement.]
- Marijuana requires a lot of water, and the state water masters regulate that usage.
- How do we appropriately grandfather people in? How do we even know who they are?
- The groundwater ordinance could be relevant.
- Lots of growing takes place indoors – 10,000 feet of canopy requires a 40,000-square foot building. If it's not allowed in industrial areas, we'll have to build in rural areas.
- Public safety concerns can be handled more easily in industrial areas than in rural areas.
- Every product has a different impact. In rural residential areas, we're seeing complete clear-cutting of lots.

NEXT MEETING

The group agreed to receive information on and discuss the following topics at the April 19 meeting:

- Whether marijuana should be treated like any other land use
- Growing and processing in rural residential areas
- Information from task force members and the staff on: farm practices; growing, processing and retail marijuana operations, and public health



Marijuana Land Use Advisory Task Force

Summary of Meeting #2

August 19, 2015, 6:30-8:30 p.m.; Development Services Building Auditorium

Attendance

Task Force Members: Amy Margolis, Emerge Law Group; Matt Wallstater, retailer; Mario Mamone, Maritime Café; Gerrick Latta, producer; Dr. Sarah Present, county public health officer; Shirley Morgan, community activist; Gabi Carnivali, Estacada CPO; Joe Mazzara, Villages at Mt. Hood; Bob Reeves, Villages at Mt. Hood; Norm Andreen, Planning Commission; Brian Pasko, Planning Commission

County Staff: Mike McCallister, Planning Director; Jennifer Hughes, Principal Planner; Nate Boderman, County Counsel; Dan Chandler, Administration; Ernest Hayes, Board of County Commissioners; Ellen Rogalin, Public & Government Affairs

WELCOME/INTRODUCTIONS

Mike McCallister welcomed everyone, asked task force members to introduce themselves and introduced county staff members. Audio recordings and notes of the meetings will be posted on the county website at www.clackamas.us/planning/marijuana.

Mike noted that the Board of County Commissioners and some staff toured two indoor marijuana grow operations on August 17, one in Canby and one in West Linn.

REVIEW OF POTENTIAL IMPACTS OF MARIJUANA LAND USE

Mike reviewed the list that came from last week's meeting and asked people to let him know if they have any more impacts to add.

BACKGROUND INFORMATION PRESENTATIONS

- Matt Wallstater presented information about marijuana growing and production (attached – *Introduction to Cannabis Production and Processing*).
- Mario Mamone presented information about marijuana retailing and wholesaling (attached – *Medical Marijuana Dispensary Operations*).
- Amy Margolis reviewed the current status of state rules and regulations related to medical and recreational marijuana (attached -- *Joint Committee on Implementing Measure 91 Tentative Bill Package, June 26, 2015*). She noted that the Oregon Health Authority licenses and regulates medical marijuana, and the Oregon Liquor Control Commission (OLCC) licenses and regulates recreational marijuana. The OLCC is going through its own rule-making process. We're not sure when the draft rules will be available, but it may be in October.
- Sarah Present reviewed public health issues related to marijuana. She noted the following:
 - The quality of scientific research is mixed and leaning towards poor because of marijuana's federal status as a dangerous and illegal drug.
 - In Colorado and Washington State, since recreational marijuana was legalized there have been more emergency room visits and poison center calls, mainly for children.

- Our concern is at the public consumption level, and it's hard to know how land use affects public health.
 - THC is the main psycho-active component – it increases heart rate and blood pressure, and impacts perception of time, driving, appetite, etc.
 - The effects are thought to be more harmful in adolescents, whose brains are still developing. There's a higher chance of addiction for people under age 25.
 - There are some links with mental illness, but not necessarily any causality.
 - Up to 9% of adults who use marijuana consistently will become addicted to it; second only to alcohol nationally.
 - There are health equity issues. While Caucasians and minorities use marijuana at about the same rate, more minorities are arrested for marijuana infractions.
 - Marijuana smoke is similar to tobacco smoke, but with more and higher levels of chemicals. There's no clear causal relationship between marijuana and cancer.
 - If a healthy adult is using marijuana in a responsible manner, adverse health effects are minimal. The bigger concern is for children and youth.
 - Land use environmental concerns include water use, pesticides, biomass, light bulb disposal – similar to other agricultural uses.
- Jennifer Hughes reviewed the county's zoning review process and current farm use practices (attached - *Clackamas County Zoning Districts, Farm Uses and Land Use Review Procedures*).

Comments and questions included the following; responses are in brackets []:

- Why does marijuana grown indoors get a higher price? [It has a somewhat higher potency and tends to look and smell better. The advantage to outdoor grows is getting light for free.]
- Are indoor grows more common? [Yes.]
- In addition to a rigorous application process to get a marijuana business license, will there also be inspections later? [Yes, there will be scheduled and spot inspections, OLCC will be able to log into security systems, etc. – as they do with bars and taverns. Licenses will have to be renewed annually.]
- Will there be fire inspections for processors, especially related to the possibility of them using liquid oxygen? [Processors use liquid oxygen very rarely, and then only 1-2 tanks and in a closed extraction system. It could require additional fire marshal permits. There will be strict requirements related to safety rules, fire inspections, building permits, etc. Mike noted that such items are already regulated through the building code.]
- Will there be a quota on the number of licenses issued? [We don't know. A lot of the people will get knocked out of the process for not submitting complete applications, not passing background checks and other corporate review issues.]
- Would a grower want to grow both in a greenhouse and outdoors? [It's possible; it depends on the person's business model.]
- Will it be possible for people to get multiple licenses for the same location? [We don't know yet, but there probably will be some cross-over. The OLCC won't allow production and dispensing at the same location.]
- What's the OLCC licensing process? [There will be a deep background check process – not just the applicant, for example, but also family members, including the law enforcement perspective. The focus will be on rewarding people for participating in the system and punishing those who don't.]
- Who will be in charge of enforcement? [The OLCC inspectors will be first, and they'll have broad options to involve law enforcement. Local code enforcement will also be involved.]
- Are there any problems with the use of solvents for processing? [Problems arise when people are "open blasting" – it's not a risk for licensed facilities. The OLCC will regulate that processing.]

- What types of chemicals are used in growing marijuana? [Fertilizers and pesticides. It can be grown organically either inside or outside. Obviously there's more control in an indoor environment. There's no airborne problem with chemicals escaping with fertilizer, and water is cleaned and then either re-used or disposed of. Airborne could be a problem with pesticides, which have to be federally approved, and since marijuana isn't a federally approved crop, there are no federally approved pesticides for it.]
- How can we be sure the lighting doesn't affect neighbors? [Indoors it's not much of a problem. Outdoors and in some greenhouses settings, lighting is used to supplement for a portion of the night. The lights are focused on the plants, not beyond.]

POLICY ISSUES

Should marijuana be treated differently than any other land use?

Mike said that, in theory, the county could administer marijuana with current regulations, as we have in the past for medical marijuana.

Discussion

- The vote is done, marijuana is approved and we already have a lot of land use hoops to jump through.
- Voters didn't know what they were voting for. It has to be treated differently because it's illegal at the federal level.
- We shouldn't revisit the vote here. Marijuana should be treated the same way as any other agricultural product. There are lots of state and local zoning rules.
- Clackamas County already has a strong land use framework in place, with places already identified for growing, processing and selling agricultural products.
- There's a concern in the industry about all the notification required in the permitting process. Most people in the marijuana production and processing industry want their locations kept confidential, for the safety of their workers and the public.
- We generally don't need lights and security systems for hay fields, so that is different.
- Not all marijuana facilities have barbed wire, flood lights and pit bulls – many have security cameras and safe rooms, as required by the state. Marijuana production looks like any other farm use with additional security.
- Cannabis is a valuable crop, but we allow protection of other valuable crops and products.
- Marijuana should be regulated like any other farm use. It's not fair to zone people out of the industry they've been in for most of their lives. We want people to come out in the open and be regulated, licensed and taxed.
- Building permits are public record.
- The county has to regulate for bad operators, and figure out what works for the industry and the neighbors.
- What's different about marijuana land use other than security?
- There are other agricultural products – like lavender and peppermint farms for the extraction of essential oils – that use solvents.
- How different is the security for marijuana from the security for cows? We used \$75,000 on dogs to guard our livestock.
- There are similar crops – wine grapes, hops, tobacco – that are substances with the potential for abuse and being unhealthy. It seems there's more of an argument for how marijuana is secured rather than where it is allowed.
- It's a misconception that cannabis can be easily grown and processed, but that's not true. Just cutting and taking a plant won't give you a psycho-active substance to smoke or eat.

- The fact that the OLCC is putting so much time and regulation around this crop is evidence that it's different. We need to understand what the OLCC will be doing and then see what else is needed.
- Unfortunately, we have to start taking action before we see what the OLCC does.
- The OLCC is hyper-regulating this industry because of federal issues, not because of land use issues. We should be looking at reasonable land use regulations.

Should growing marijuana be permitted as a farm use in rural areas of the county?

Jennifer said the county believes that growing marijuana is allowed in EFU zones, but the county has the discretion to apply reasonable regulations in other zones. Processing is a conditional use currently in rural residential zones and not allowed in timber zones, so we're mainly talking about production (growing).

Discussion

- I have concerns about safety in rural residential areas. It takes a long time to get a sheriff up on the mountain. The more rural you are, the tougher the fire-fighting is.
- I oppose any marijuana production in rural residential areas because of safety. Law enforcement is a huge issue, especially with a federally-illegal drug.
- If we add additional standards, they should be objective. We need to avoid taking action because some people are opposed to the word "marijuana."
- It doesn't make sense to allow grows indoors but not outdoors in rural areas.
- Safety is not such a big problem. Those businesses already exist and we're not having those issues today.
- We should consider home occupation permits for rural residential areas in terms of size.
- If we allow it in EFU zones, we can't keep it out of timber and ag/forest zones. It doesn't work to not allow farming in a farm zone, but we should use the conditional use process. We shouldn't go any further than RFF5.
- I'm ok with home occupation or conditional use permits. The county can limit the size of the grows.
- Is it important for the grow manager to live on the site in a rural area? [Someone should live on the site.]
- As a realtor, I know there are already lots of grow operations out there. As for fire danger, we have guns blasting all around and just had a fire on a tree farm on Highway 211.
- It's tough to grow marijuana on land in this area – mold is a big problem. If you do grow outdoors, the most productive land is at the lower elevations. By allowing indoor grows, the county would help make this a vibrant industry.
- There are also problems with hazardous materials, not just fires.
- There are concerns also about hemp production – it should be on 80+ acres on EFU land and need to watch for cross-pollination with cannabis. [Mike – Hemp is treated as a farm crop.]
- I agree with going no further than RFF5. It's a whole different dynamic when we talk about processing. [Mike – Processing requires condition use in rural residential districts.]
- Our duty is to limit the illegal market. We should reward people who are doing things correctly and safely. I'm concerned that limiting grows to indoors would not do that.

WRAP-UP AND ADJOURN

Mike said we're still interested in any and all ideas about growing and processing in the rural residential districts. Next week we will talk about code enforcement, processing in industrial districts and ways to mitigate impacts.

INTRODUCTION TO CANNABIS PRODUCTION AND PROCESSING

I. Forms of Cannabis

Flower

- Dried flowers of the cannabis plant are what most people think of when they hear marijuana
- Can be smoked or vaporized—eating flower will not work because THC doesn't become psychoactive unless it is heated
- High THC and High CBD Strains available

Concentrates

- Cannabinoids and terpenes are separated from the plant material through some variation of a basic 2-step process:
 1. A solvent is introduced to the plant material in order to extract the cannabinoids and terpenes
 2. The solvent is purged using heat, pressure or agitation
- Common solvents used include butane, propane, CO₂, liquid oxygen, water and others
- Concentrates can be smoked or vaporized using a vape pen or a dab rig
- If the concentrate is heated adequately during the purge process, it can also be eaten (it is usually used as an ingredient in a food item as plain concentrates do not taste good)

Edibles

- Edibles can be made by mixing raw cannabis with a fat like butter or coconut oil over heat. The plant material is then strained out, but the cannabinoids bond to the fat molecules, thereby medicating the butter or oil.
- Edibles manufacturers add the medicated butter or oil (or a concentrate as mentioned above) to food products, making cannabis edibles.

Smoking vs. Eating

- When cannabis flowers or concentrates are smoked or vaporized, onset of effects is immediate
- This allows for the most precise dosage control—if it feels too strong, you simply stop smoking
- Downside of smoking and vaporizing—lung irritation
- Edible cannabis takes anywhere from 20 minutes to two hours to take effect—makes dosage control harder
- Edible cannabis causes longer lasting and more intense effects

II. 3 Stages of a Cannabis Plant's Lifecycle

1. Clone/Seedling

- A cannabis plant begins life as a seed or a cutting taken from another plant
- The seed or clone must sprout roots, which typically takes 1-3 weeks

2. Vegetative Growth

- Once the plant is rooted, it begins a period vegetative growth
- Here the plant gets larger and develops strong roots and branches in preparation for flowering
- Vegetative growth can continue indefinitely as long as the plants receive the correct amount of light

3. Flowering

- Here the plant produces the flowers which are dried and smoked
- Flowering is triggered by shortening the portion of the day where the plant is exposed to light. Outdoors, this happens naturally as the days shorten with the approach of fall. Indoors, growers provide plants with light for 18-24 hours each day during vegetative growth, then cut the light to 12 hours each day when they are ready to induce flowering.
- Each plant has a genetically predetermined flowering period—typically 8-10 weeks. At the end of that time plants will be at peak potency and ready to harvest

III. Indoor, Outdoor and Greenhouse Cultivation

Indoor

- Mostly in warehouses
- Experienced cultivators can have 5-6 harvests per year
- More control over the environment means more potential to optimize conditions
- Can contain smell using carbon filters
- Easier to secure
- Most cannabis sold in Oregon retail stores is indoor
- Fetches higher price than outdoor (Retail \$8-15/gram; Wholesale \$2000-2800/pound)

Outdoor

- Much larger plants than indoor
- Typically harvest much more with outdoor, but only 1 harvest per year
- Harder to secure than indoor
- Generally seen as less desirable by consumers
- Not well suited to Willamette Valley—typically rains here before crop is fully mature, causing mold problems
- Lower price than indoor (Retail \$4-7/gram; Wholesale \$900-1500/pound)

Greenhouse

- Hybrid of indoor and outdoor styles
- Can get up to 3 harvests per year using light deprivation techniques
- Less control of environment than indoor/more than outdoor
- Less ability to mitigate smell than indoor/more than outdoor
- Price typically falls between indoor and outdoor (Retail \$5-9/gram; Wholesale \$1200-1700/pound)

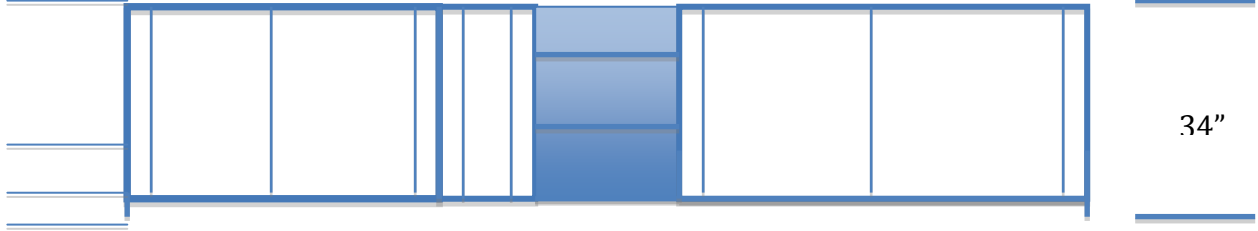
IV. Processing

Processing Includes

- Packaging for sale
- Producing concentrates
- Producing topicals and edibles

Medical Marijuana Dispensary Operations

1. License
 - a. Application – State Application; Online; \$4,000/year.
 - b. Person Responsible for Facility – Has full legal responsibility.
 - i. Criminal background check - Yearly
 - ii. State resident
2. Security
 - a. 24-hour security alarm monitoring
 - i. All exits/entrances
 - ii. All interior doors
 - iii. Motion Detectors in all rooms
 - iv. Two Panic Buttons
 - b. Security Cameras
 - i. Outdoors at each exit/entry
 - ii. Entryway, Point of Sale, Dispensary, Security Room, PRF Office
 - iii. Additional cameras so no point is further than 15 ft. from a camera.
 - iv. Recordings stored for a minimum of 30 days.
 - v. Recordings are secure.
 - c. Safes
 - i. Required to store products.
 - ii. Must be bolted to floor.
3. Dispensary Operations
 - a. Customers:
 - i. The OMMP recognizes Patients, Caregivers and Growers.
 - ii. Medicated products are sold to Patients and their Caregivers, but not to Growers.
 - b. Access to Dispensaries
 - i. Patient/Caregiver with a current Card and Photo ID.
 - ii. Others –officials (Comcast, police, OMMP)
 - c. Security of Patient Records – Cloud based.
 - d. Employees – background checked by me, no other requirements
4. Vendors
 - a. Patients own MMJ
 - b. Transfers by Patient, or authorize a Caregiver, or Grower to transfer
 - c. Transfer Form, Photo ID, & OMMP Card
 - d. Test results
 - e. Invoice
5. Business Financial Records
 - a. POS for our sale and sales records
 - b. QuickBooks for financial records
 - c. Payroll – Accountant
 - d. Invoice & payment receipts
 - e. Cloud based for security
6. Payroll and Business Taxes – Accountant
 - a. No deductions for operating expenses
 - b. Only COG deductible



**Joint Committee on Implementing Measure 91
Tentative Bill Package – June 26, 2015**

*From Amy Margolis
August 19, 2015*

Adult-use Marijuana (HB 3400 modified by -9, -30 amendments)

Regulation and Enforcement

- Oregon Liquor Control Commission (OLCC) will be primary administrative agency.
- Local governments may impose reasonable time, place, and manner restrictions and may use nuisance law to ensure marijuana businesses are good neighbors.
- OLCC marijuana enforcement inspectors will be able to conduct investigations, issue citations, and seize product.

Licensing and Certification

- Producers, processors, wholesalers, testing labs, and retailers will need a license.
- Primary applicant must be 21 years old and have lived in Oregon for two years.
- No residency required for out-of-state investors, but background checks are required.
- Certification available for propagation of seeds and immature plants.
- Certification available for private research.

Seed to Sale Tracking

- All marijuana items offered for sale will be tracked and reported through a seed-to-sale system. The goal of this system is to prevent diversion of product to the illegal market.
- OLCC-licensed retailers may only receive and sell marijuana items from OLCC-licensed producers, processors or wholesalers.

Grow Limits

- OLCC will establish maximum grow sizes during the rulemaking process.

Lab Standards and Testing

- Oregon Health Authority (OHA) establishes rigorous lab certification and testing standards to provide consumers with accurate information about potency to prevent sale of contaminated product.
- OLCC will issue licenses to labs that meet these standards.

Labeling and Packaging

- OHA will establish labeling requirements and potency labeling standards.
- OLCC will establish standards for child-resistant packaging, clear information about ingredients.
- No marketing to youth.

Edibles

- Edible products will be subject to Oregon Dept. of Agriculture food processing requirements

Local Government

- Opt-out requirements will be tailored based on Measure 91 vote outcomes. Communities where more than 55% of the voters opposed Measure 91 may opt out through actions of local elected officials. In communities where Measure 91 received at least 45% of the vote, local officials will refer opt-out decisions to public vote.
- Local governments that allow all categories of legal marijuana within their jurisdiction are eligible to impose a local tax of up to 3% of the value of adult-use marijuana, subject to a community vote allowing such a tax.
- Communities that disallow marijuana sales will not receive revenue from state and local marijuana taxes.
- Grandfather clause protects existing legal marijuana businesses if a local government opts out of allowing new marijuana businesses.

Marijuana Grow Site Opting In

- Medical marijuana growers may choose to participate in the M91 system. If they participate in the M91 systems, they'll be subject to OLCC rules.

Marijuana Use Prevention Education for Youth

- OLCC and OHA shall develop and implement an educational program to prevent youth from using marijuana.

Land Use

- Marijuana businesses must comply with applicable land use laws and provide a Land Use Compatibility Statement with an application for an OLCC license.

Energy and Water Usage

- A task force will track energy and water usage and recommend strategies to incentivize efficient use of energy and water.

Protection for Workers

- Workers have whistle-blower protections if they report unlawful conduct and have the right to organize.

Criminal Justice Issues

- Marijuana crimes are reclassified to reduce severity and to create opportunities for expungement.

Medical Marijuana (HB 3400 modified by -10, -31 amendments)

Regulation and Enforcement

- OHA will be the primary administrative agency.
- OHA will establish tracking and reporting system to prevent diversion to the illegal market.
- Local jurisdictions may impose reasonable time, place, and manner restrictions and use nuisance law.
- Local jurisdictions and law enforcement may access info about registered processing and dispensary sites to aid enforcement.

Grow Limits and Lawful Possession

- Medical marijuana grows may not exceed prescribed sizes (96/48/24/12), with phase-in of limits.
- Producers may lawfully possess what they grow.

Lab Standards and Testing

- Establishes consistent standards to provide consumers with accurate information about potency and protect them from harmful contaminants.

Labeling and Packaging

- Requires child-resistant packaging, clear information about potency, ingredients. No marketing to youth.

Local Government

- Existing law controls. Dispensaries are legal, moratoriums ended in May 2015.
- Opt-out requirements will be tailored based on Measure 91 outcomes, as described above.
- Local governments may not prohibit medical marijuana grows or caregiver processing or delivery to patients.
- Grandfather clause protects existing legal marijuana businesses if a local government opts out of allowing new businesses.

Tax Levied at Point of Sale (HB 2041 modified by -2 amendment)

Taxation of adult-use marijuana

- Tax will be levied at point of sale rather than point of harvest based on broad community input indicating that would be preferable.
- Statewide single rate flat tax of 17%.
- Department of Revenue will collect tax and be responsible for enforcement.

Early Start (SB 460 modified by -9 amendment)

- Adult rec sales from Medical Marijuana dispensaries will begin Oct 1, 2015 and sunset Dec 31, 2016
- Local jurisdictions may choose to not allow these sales.
- Allows medical dispensaries to sell no more than one-quarter of an ounce of marijuana to recreational buyers.
- The Department of Revenue will tax these sales after a start-up phase in which it develops capacity to impose these taxes.

Technical Fixes (SB 844 modified by -36, -43, -46 amendments)

Patient's bill of rights

- Hospice personnel can be designated as an additional caregiver for medical marijuana patients.
- A patient may not be denied inclusion on an organ transplant list exclusively on the basis of marijuana use.

Expungement

- Minors eligible to expunge record of unlawful possession, delivery, or manufacture convictions one year after completing sentence.

Medical research task force

- Establishes task force to study and report on development of the medical cannabis industry.

Banking (SJM 12)

- Urges Congress to support development of a solution to financial issues arising from marijuana industry and to declassify marijuana as a Schedule I drug under the federal Controlled Substances Act.

Clackamas County Zoning Districts, Farm Uses and Land Use Review Procedures

August 19, 2015

A. Zoning Districts

Unincorporated Clackamas County land is regulated in 51 zoning districts. For the purposes of the discussion of marijuana-related land uses, these districts can be sorted into the following nine categories.

1. **Natural Resource Zoning Districts, including Exclusive Farm Use (EFU), Ag/Forest (AG/F) and Timber (TBR):** Primarily to be preserved and maintained for farm and forest uses. To a large degree, allowed uses are regulated by the state. Dwellings are not allowed outright, although many lots in these zones have dwellings on them, either due to nonconforming use status or compliance with the criteria for establishment of a dwelling. The minimum lot size is 80 acres for the creation of a new lot, with very limited exceptions, though many lots are smaller because the 80-acre standard was not enacted until 1993.
2. **Rural Residential Districts, including Recreational Residential (RR), Rural Area Residential 1-Acre (RA-1), Rural Area Residential 2-Acre (RA-2), Rural Residential Farm Forest 5-Acre (RRFF-5), Farm Forest 10-Acre (FF-10), and Future Urban 10-Acre (FU-10):** Primarily intended for single-family dwellings and small farms and forests. Minimum lot sizes range from one to 10 acres. The FU-10 district includes lands within the Portland Metropolitan Urban Growth Boundary (UGB) and reserved for future urban use. However, the allowed uses in this district are very similar to the rural residential districts.
3. **Rural Commercial and Rural Tourist Commercial Districts:** Located in rural areas of the county to provide for retail, service and office uses that serve, and are on a scale commensurate with, rural development. Except where concentrated in unincorporated communities (e.g., Boring, Beavercreek, Government Camp), these zones are scattered throughout the county on relatively small lots that have a historic commitment to commercial use.
4. **Rural Industrial Districts:** Located in rural areas of the county to provide for industrial uses that are not labor-intensive and are consistent with rural character, rural development, and rural facilities and services. This zone is concentrated in unincorporated communities or applied to sites with a historic commitment to industrial use.
5. **Urban and Mt. Hood Low-Density Residential Districts:** These 12 low-density residential zones primarily allow single-family dwellings on lots ranging from 2,000 to 30,000 square feet. These zones are located within the Portland Metropolitan UGB except for the Mt. Hood low-density residential district, which is along the Highway 26 corridor in several unincorporated communities.

6. **Urban and Mt. Hood Multi-family Residential Districts:** These eight multi-family residential zones primarily allow two-family, three-family and multi-family dwellings at densities of 12 units an acre and above. These zones are located within the Portland Metropolitan UGB, except for the Mt. Hood multi-family residential district, which is along the Highway 26 corridor in Wemme/Welches and Government Camp.
7. **Urban Industrial Districts, including Campus Industrial (CI), Business Park (BP), Light Industrial (LI) and General Industrial (GI):** These four zones, located in the Portland Metropolitan UGB, accommodate a variety of industrial and office uses, with development standards that vary across zones. For example, primary uses in the BP zone may not include outdoor processing, storage or display. In the LI zone, minimal outdoor storage is allowed and outdoor processing is prohibited as part of a primary use. In the GI zone, outdoor storage, display and processing are allowed as part of a primary use.
8. **Urban Commercial Districts:** These 13 urban commercial districts that provide for a broad range of retail, service and office uses are located within the Portland Metropolitan UGB. In some cases, manufacturing is permitted as long as it does not include primary processing of raw materials. Residential uses are also permitted in many commercial districts.
9. **Open Space Districts, including Open Space Management (OSM) and Government Camp Open Space Management (GCOSM):** Primarily intended to provide for natural areas, parks and recreational uses.

B. Regulation of Farm Uses

The authority to regulate the type and nature of farm uses in the rural area of the county varies depending on the zoning district. In the EFU district, the county is required to permit farm uses as defined in ORS 215.203. House Bill 3400 specifically identifies marijuana as a crop for purposes of this definition. ORS 215.203 specifically provides:

(2)(a) As used in this section, “farm use” means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof.

- *“Farm use” includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use.*
- *“Farm use” also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows.*
- *“Farm use” also includes the propagation, cultivation, maintenance and harvesting of aquatic, bird and animal species that are under the jurisdiction of*

the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission.

- *“Farm use” includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection.*
- *“Farm use” does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subsection (3) of this section or land described in ORS 321.267 (3) or 321.824 (3).*

Furthermore, ORS 215.253 limits the county’s authority to restrict or regulate farming practices in the EFU District.

215.253 Restrictive local ordinances affecting farm use zones prohibited; exception.

(1) No state agency, city, county or political subdivision of this state may exercise any of its powers to enact local laws or ordinances or impose restrictions or regulations affecting any farm use land situated within an exclusive farm use zone established under ORS 215.203 or within an area designated as marginal land under ORS 197.247 (1991 Edition) in a manner that would restrict or regulate farm structures or that would restrict or regulate farming practices if conditions from such practices do not extend into an adopted urban growth boundary in such manner as to interfere with the lands within the urban growth boundary. “Farming practice” as used in this subsection shall have the meaning set out in ORS 30.930.

(2) Nothing in this section is intended to limit or restrict the lawful exercise by any state agency, city, county or political subdivision of its power to protect the health, safety and welfare of the citizens of this state.

- The county permits farm use in the AG/F and TBR districts in the same manner as permitted in the EFU District.
- In the county’s rural residential districts, the county’s Zoning and Development Ordinance (ZDO) (rather than Oregon Revised Statutes [ORS]) establishes the uses, farm-related or otherwise, that are permitted, and those uses vary between the different rural residential districts (see Farm Uses in Table 316-1 from the ZDO, below).
- Currently the allowed farm uses in the RA-2, RRFF-5, FF-10 and FU-10 zones align closely with those in ORS 215.203 and implemented in our EFU district, but are not identical.
- Farm uses allowed in the RA-1 and RR districts are more limited but include raising, harvesting and selling crops.
- Except as may be allowed through a home occupation permit, processing of farm products currently is a conditional use in the RRFF-5 and FF-10 districts and is prohibited in other rural residential districts.

Finally, the County is prohibited from regulating farming practices as a nuisance or trespass *“on lands zoned for farm or forest use.”* (See ORS 30.930 through 30.960, below.) Of particular note is the definition of “nuisance” or “trespass” in ORS 30.932.

As used in ORS 30.930 to 30.947, “nuisance” or “trespass” includes but is not limited to actions or claims based on noise, vibration, odors, smoke, dust, mist from irrigation, use of pesticides and use of crop production substances.

C. Land Use Review Procedures

There are three types of procedures used for reviewing land use applications, as described in the county’s ZDO.

1. **Type I Permits:** Land use actions governed by *non-discretionary standards and clear and objective approval criteria.*

General: Approval of a Type I permit may require imposition of conditions of approval to ensure compliance with the ZDO.

Decision Process: The Planning Director (or staff designee) reviews the application for conformance with the applicable criteria and issues a decision. The Planning Director’s decision is the final decision of the county.

Notice: No notice to adjacent property owners.

Examples: simple property line adjustments, signs and mobile vending units.

2. **Type II Permits:** Land use actions governed by *standards and approval criteria that generally require the exercise of limited discretion.*

General: Impacts associated with the land use action may require imposition of conditions of approval to minimize those impacts and ensure compliance with the ZDO.

Decision Process: The Planning Director (or staff designee) reviews the application for conformance with the applicable criteria and issues a decision. Any interested party may appeal the decision. The Planning Director’s decision is final unless appealed to the land use hearings officer, in which case the application is considered at a public hearing. The hearings officer’s decision is the final decision of the County in all but applications for interpretations of text of the ZDO or Comprehensive Plan.

Notice: Notice of the application is provided to the applicant, nearby property owners and the applicable Community Planning Organization (CPO), Hamlet or Village.

Examples: partitions, small subdivisions, home occupation permits, variances and design review.

3. **Type III Permits:** Land use actions governed by *standards and approval criteria that require the use of discretion and judgment.*

General: The issues associated with the land use action may be complex and the impacts significant, and conditions of approval may be imposed to mitigate the impacts and ensure compliance with the ZDO and the Comprehensive Plan.

Decision Process: The Type III procedure is a quasi-judicial review process where the land use hearings officer conducts a public hearing, receives testimony, reviews the application for conformance with the applicable criteria and issues a decision. The hearings officer’s decision is the final decision of the county.

Notice: Notice of the application and public hearing is provided to the applicant, nearby property owners and the applicable CPO, Hamlet or Village.

Examples: large subdivisions, conditional use permits and zone changes

D. Options for Allowing Marijuana Production and Processing in Rural Residential Districts

Under the provisions of HB 3400, the County *may* allow the production (i.e., growing) and processing of marijuana in rural residential zoning districts. Staff believes there are several options to consider:

1. *Prohibit production and processing of marijuana.*
2. *Require submittal and approval of a conditional use permit.*
Conditional use permits are subject to Type III land use review. The conditional use permit provides an opportunity to consider and evaluate the specific nature and characteristics of each proposal through the public hearing process. The conditional use permit criteria include broad discretion to consider certain impacts from a proposed use, compatibility of the use with adjacent and nearby properties, safety of the transportation system and suitability of the property to accommodate the use. (See Section 1203 of the ZDO, attached.)
3. *Require submittal and approval of a home occupation permit.*
This could include limiting growing and processing operations to Level III home occupations (a property where at least 50% of abutting properties are greater than two acres). Home occupations are subject to Type II land use review. (See Section 822 of the ZDO, attached.)
4. *Allow growing as an outright permitted use but adopt objective development standards,* such as limiting the use to indoor operations or requiring a minimum lot size or minimum setback from lot lines. These standards could be applied during review of a building permit or through a Type I land use review.
5. *Allow growing of marijuana as an outright permitted use* with no land use review and no special development standards.

**Table 316-1: Permitted Uses in Rural Residential and
Future Urban Residential Zoning Districts
(from Clackamas County ZDO)**

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Accessory Buildings and Uses Customarily Permitted , such as amateur (Ham) radio antennas and towers, arbors, bicycle racks, carports, citizen band transmitters and antennas, cogeneration facilities, courtyards, decks, decorative ponds, driveways, electric vehicle charging stations, family daycare providers, fountains, garages, garden sheds, gazebos, greenhouses, HVAC units, meeting facilities, outdoor kitchens, parking areas, patios, pergolas, pet enclosures, plazas, property management and maintenance offices, recreational facilities (such as bicycle trails, children’s play structures, dance studios, exercise studios, playgrounds, putting greens, recreation and activity rooms, saunas, spas, sport courts, swimming pools, and walking trails), rainwater collection systems, satellite dishes, self-service laundry facilities, shops, solar energy systems, storage buildings/rooms, television antennas and receivers, transit amenities, trellises, and utility service equipment	A	A	A	A	A	A
Accessory Kitchens	A ¹	A ¹	A ¹	A ¹	A ¹	A ¹
Aircraft Land Uses	X	X	X	C	C	C
Aircraft Landing Areas	X	C	C ²	X	X	X
Bed and Breakfast Inns , subject to Section 832	C	C	C	C	C	X
Bed and Breakfast Residences , subject to Section 832	C	C	C	C	C	C
Bus Shelters , subject to Section 823	P	P	P	P	P	P
Campgrounds	C	C	C	C	C	C
Cemeteries , subject to Section 808	C	C	X	C	C	C
Churches , subject to Section 804	C	C	C	C	C	C ³
Commercial or Processing Activities in Conjunction with Farm or Forest Uses	X	X	X	C	C	X
Composting Facilities , subject to Section 834	X	X	X	C	C	X
Conservation Areas or Structures for the Conservation of Water, Soil, Forest, or Wildlife Habitat Resources	P	P	P	P	P	P
Crematories , subject to Section 808	C	C	X	X	X	X
Daycare Facilities , subject to Section 807	C	C	C	C	C	C ⁴
Daycare Services, Adult	C	C	C	C	C	C ⁵
Dwellings, Detached Single-Family	P ⁶	P ⁶	P ⁶	P ⁶	P ⁶	P ⁶
Dwellings, Two-Family , subject to Section 802	C ⁶	X	X	X	X	X
Energy Source Development	X	X	C	X	X	X
Farmers’ Markets , subject to Section 840	A	A	A	A	A	A

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Farm Uses, including:						
Raising, harvesting, and selling crops	P	P	P ⁷	P	P	P
Feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees	X ⁸	P	X ⁸	P	P	P
Dairying and the sale of dairy products	X ⁸	P	X ⁸	P	P	P
Any other agricultural or horticultural use or animal husbandry or any combination thereof	X ⁸	P	X ⁸	P	P	P
Preparation, storage, and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use	P	P	P ⁷	P	P	P
Propagation, cultivation, maintenance, and harvesting of aquatic, bird, and animal species that are under the jurisdiction of the Oregon Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission	X ⁸	P	X ⁸	P	P	P
Growing cultured Christmas trees	P	P	P ⁷	P	P	P
Fish or Wildlife Management Programs	X	X	X	P	P	P
Forest Practices , including the following operations conducted on or pertaining to forestland: reforestation of forestland, road construction and maintenance, harvesting of forest tree species, application of chemicals, disposal of slash, and removal of woody biomass	P ⁹	P ⁹	P	P ⁹	P ⁹	P ⁹
Fraternal Organization Lodges	C ¹⁰	C ¹⁰	C ¹⁰	C ¹⁰	C ¹⁰	C ¹⁰
Government Uses , unless such a use is specifically listed as a primary, accessory, conditional, or prohibited use in the applicable zoning district	C ¹⁰	C ¹⁰	C ¹⁰	C ¹⁰	C ¹⁰	C ¹⁰
Guest Houses and Studios , subject to Section 833	A	A	A	A	A	A
Guest Ranches and Lodges	X	X	C	X	X	X
Home Occupations , including bed and breakfast homestays, subject to Section 822 ¹¹	A	A	A	A	A	A
Home Occupations to Host Events , subject to Section 806	C	C	C	C	C	C
Hydroelectric Facilities , subject to Section 829	C	C	C	C	C	C
Kennels	C ¹²	C ¹²	X	C ¹²	C ¹²	X
Livestock , subject to Section 821	P	X ⁸	A	X ⁸	X ⁸	X ⁸
Manufactured Dwellings , subject to Section 824	P ⁶	P ⁶	P ⁶	P ⁶	P ⁶	P ⁶
Operations Conducted for the Exploration, Mining, or Processing of Geothermal Resources or Other Subsurface Resources	X	X	X	C	C	X
Produce Stands	A ¹³	A ¹³	A ¹³	A ¹³	A ¹³	A ^{13,14}
Public Utility Facilities	C ^{10,15}	C ^{10,15}	C ^{10,15}	C ^{10,15}	C ^{10,15}	C ^{10,15}
Radio and Television Transmission and Receiving Towers and Earth Stations	C ^{10,16}	C ^{10,16}	C ^{10,16}	C ^{10,16}	C ^{10,16}	C ^{10,16}
Recreational Uses , including boat moorages, community gardens, country clubs, equine facilities, gymnastics facilities, golf courses, horse trails, pack stations, parks, playgrounds, sports courts, swimming pools, ski areas, and walking trails ¹⁷	C ¹⁰	C ^{10,18}	C ¹⁰	C ^{10,18}	C ^{10,18}	C ^{10,18}

Use	RA-1	RA-2	RR	RRFF-5	FF-10	FU-10
Recreational Uses, Government-Owned , including amphitheaters; arboreta; arbors, decorative ponds, fountains, gazebos, pergolas, and trellises; ball fields; bicycle and walking trails; bicycle parks and skate parks; equine facilities; boat moorages and ramps; community buildings and grounds; community and ornamental gardens; courtyards and plazas; fitness and recreational facilities, such as exercise equipment, gymnasiums, and swimming pools; horse trails; miniature golf, putting greens, and sports courts; pack stations; parks; picnic areas and structures; play equipment and playgrounds; nature preserves and wildlife sanctuaries; ski areas; tables and seating; and similar recreational uses ¹⁷	P ¹⁹	P ¹⁹	P ¹⁹	P	P	P
Recreational Uses, Government-Owned Golf Courses ¹⁷	P ¹⁹	P ¹⁹	P ¹⁹	P	P	P
Recreational Vehicle Camping Facilities , subject to Section 813	C ¹⁰	C ¹⁰	C ¹⁰	C ¹⁰	C ¹⁰	X
Sanitary Landfills and Debris Fills , subject to Section 819	X	X	X	C	C	X
Schools , subject to Section 805	C ²⁰	C ²⁰	C	C ²⁰	C ²⁰	C ²¹
Signs , subject to Section 1010	A ²²	A ²²	A ²²	A ²²	A ²²	A ²²
Surface Mining , subject to Section 818	X	X	X	C	C	X
Telephone Exchanges	C ¹⁰	C ¹⁰	C ¹⁰	C ¹⁰	C ¹⁰	C ¹⁰
Temporary Buildings for Uses Incidental to Construction Work. Such buildings shall be removed upon completion or abandonment of the construction work.	A	A	A	A	A	A
Temporary Storage within an Enclosed Structure of Source-Separated Recyclable/Reusable Materials Generated and/or Used On-site Prior to On-site Reuse or Removal by the Generator or Licensed or Franchised Collector to a User or Broker	A	A	A	A	A	A
Transfer Stations , subject to Section 819	X	X	C	X	X	C
Utility Carrier Cabinets , subject to Section 830	P	P	P	P	P	P
Wireless Telecommunication Facilities listed in Subsections 835.04 and 835.05(A)(2) and (3), subject to Section 835	P	P	P	P	P	P
Wireless Telecommunication Facilities listed in Subsection 835.06(A), subject to Section 835	C	C	C	C	C	C

- ¹ An accessory kitchen is permitted only in a detached single-family dwelling or a manufactured dwelling. Only one accessory kitchen is permitted in each single-family dwelling or manufactured dwelling.
- ² Aircraft landing areas are permitted for use by emergency aircraft (fire, rescue, etc.) only.
- ³ This use is limited to alteration or expansion of a lawfully established church.
- ⁴ This use is limited to alteration or expansion of a lawfully established daycare facility.
- ⁵ This use is limited to alteration or expansion of a lawfully established adult daycare service.

- ⁶ Except as limited by Subsection 902.02, each lot of record may be developed with only one of the following: detached single-family dwelling, two-family dwelling (only if approved as a conditional use in the RA-1 District pursuant to Section 802), or manufactured dwelling.
- ⁷ This use is permitted only on lots larger than five acres.
- ⁸ Depending on the specific zoning district, livestock is either permitted as described under the use category of “farm uses” or is permitted as described under the use category of “livestock.”
- ⁹ For land inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.03 regarding a development restriction that may apply if excessive tree removal occurs.
- ¹⁰ Uses similar to this may be authorized pursuant to Section 106, *Authorization of Similar Uses*.
- ¹¹ A use may be permitted as a home occupation, subject to Section 822, even if such use is also identified in another use listing in Table 316-1.
- ¹² The portion of the premises used shall be located a minimum of 200 feet from all property lines.
- ¹³ A produce stand shall be subject to the parking requirements of Section 1015, *Parking and Loading*.
- ¹⁴ In addition to selling produce grown on-site, a produce stand may sell agricultural products that are produced in the surrounding community in which the stand is located.
- ¹⁵ Public utility facilities shall not include shops, garages, or general administrative offices.
- ¹⁶ The base of such towers shall not be closer to the property line than a distance equal to the height of the tower.
- ¹⁷ This use may include concessions, restrooms, maintenance facilities, and similar support uses.
- ¹⁸ Equine facilities are a primary use, subject to the following standards and criteria:
- a. The number of horses shall be limited to no more than one horse per acre or five horses in total, whichever is less. Horses owned by the operator of the equine facility, or owned by a 501(c)(3) organization and being temporarily fostered by the operator of the equine facility, do not count toward the maximum number of horses. The one-horse-per-acre standard shall be calculated based on the area of the lot of record or tract on which the equine facility is located.
 - b. Services offered at the equine facility, such as riding lessons, training clinics, and schooling shows, shall be provided only to the family members and nonpaying guests of the operator of the equine facility, the owners of boarded horses, or the family members and nonpaying guests of the owners of boarded horses.
- ¹⁹ Any principal building or swimming pool shall be located a minimum of 45 feet from any other lot in a residential zoning district.
- ²⁰ Schools are prohibited within the areas identified as Employment, Industrial, and Regionally Significant Industrial on the Metro Region 2040 Growth Concept Map.
- ²¹ This use is limited to alteration or expansion of a lawfully established school.
- ²² Temporary signs regulated under Subsection 1010.13(A) are a primary use.

Excerpted from Oregon Revised Statutes

FARMING AND FOREST PRACTICES

30.930 Definitions for ORS 30.930 to 30.947. As used in ORS 30.930 to 30.947:

(1) “Farm” means any facility, including the land, buildings, watercourses and appurtenances thereto, used in the commercial production of crops, nursery stock, livestock, poultry, livestock products, poultry products, vermiculture products or the propagation and raising of nursery stock.

(2) “Farming practice” means a mode of operation on a farm that:

(a) Is or may be used on a farm of a similar nature;

(b) Is a generally accepted, reasonable and prudent method for the operation of the farm to obtain a profit in money;

(c) Is or may become a generally accepted, reasonable and prudent method in conjunction with farm use;

(d) Complies with applicable laws; and

(e) Is done in a reasonable and prudent manner.

(3) “Forestland” means land that is used for the growing and harvesting of forest tree species.

(4) “Forest practice” means a mode of operation on forestland that:

(a) Is or may be used on forestland of similar nature;

(b) Is a generally accepted, reasonable and prudent method of complying with ORS 527.610 to 527.770 and the rules adopted pursuant thereto;

(c) Is or may become a generally accepted, reasonable and prudent method in conjunction with forestland;

(d) Complies with applicable laws;

(e) Is done in a reasonable and prudent manner; and

(f) May include, but is not limited to, site preparation, timber harvest, slash disposal, road construction and maintenance, tree planting, precommercial thinning, release, fertilization, animal damage control and insect and disease control.

(5) “Pesticide” has the meaning given that term in ORS 634.006. [1981 c.716 §1; 1983 c.730 §1; 1993 c.792 §32; 1995 c.703 §1; 2005 c.657 §2]

30.931 Transport or movement of equipment, device, vehicle or livestock as farming or forest practice. Notwithstanding ORS 30.930, if the activities are conducted in a reasonable and prudent manner, the transport or movement of any equipment, device or vehicle used in conjunction with a farming practice or a forest practice on a public road or movement of livestock on a public road is a farming or forest practice under ORS 30.930 to 30.947. [1995 c.703 §9]

30.932 Definition of “nuisance” or “trespass.” As used in ORS 30.930 to 30.947, “nuisance” or “trespass” includes but is not limited to actions or claims based on noise, vibration, odors, smoke, dust, mist from irrigation, use of pesticides and use of crop production substances. [1993 c.792 §33; 1995 c.703 §2]

30.933 Legislative findings; policy.

(1) *The Legislative Assembly finds that:*

- (a) *Farming and forest practices are critical to the economic welfare of this state.*
- (b) *The expansion of residential and urban uses on and near lands zoned or used for agriculture or production of forest products may give rise to conflicts between resource and nonresource activities.*
- (c) *In the interest of the continued welfare of the state, farming and forest practices must be protected from legal actions that may be intended to limit, or have the effect of limiting, farming and forest practices.*

(2) *The Legislative Assembly declares that it is the policy of this state that:*

- (a) *Farming practices on lands zoned for farm use must be protected.*
- (b) *Forest practices on lands zoned for the production of forest products must be protected.*
- (c) *Persons who locate on or near an area zoned for farm or forest use must accept the conditions commonly associated with living in that particular setting.*
- (d) *Certain private rights of action and the authority of local governments and special districts to declare farming and forest practices to be nuisances or trespass must be limited because such claims for relief and local government ordinances are inconsistent with land use policies, including policies set forth in ORS 215.243, and have adverse effects on the continuation of farming and forest practices and the full use of the resource base of this state. [1993 c.792 §31]*

30.934 Prohibition on local laws that make forest practice a nuisance or trespass; exceptions.

(1) *Any local government or special district ordinance or regulation now in effect or subsequently adopted that makes a forest practice a nuisance or trespass or provides for its abatement as a nuisance or trespass is invalid with respect to forest practices for which no claim or action is allowed under ORS 30.936 or 30.937.*

(2) *Subsection (1) of this section does not apply to:*

- (a) *City rules, regulations or ordinances adopted in accordance with ORS 527.722; or*
- (b) *Any forest practice conducted in violation of a solar energy easement that complies with ORS 105.880 to 105.890. [1993 c.792 §38]*

30.935 Prohibition on local laws that make farm practice a nuisance or trespass. *Any local government or special district ordinance or regulation now in effect or subsequently adopted that makes a farm practice a nuisance or trespass or provides for its abatement as a nuisance or trespass is invalid with respect to that farm practice for which no action or claim is allowed under ORS 30.936 or 30.937. [1981 c.716 §2; 1985 c.565 §4; 1993 c.792 §37]*

30.936 Immunity from private action based on farming or forest practice on certain lands; exceptions.

(1) *No farming or forest practice on lands zoned for farm or forest use shall give rise to any private right of action or claim for relief based on nuisance or trespass.*

(2) *Subsection (1) of this section shall not apply to a right of action or claim for relief for:*

- (a) *Damage to commercial agricultural products; or*
- (b) *Death or serious physical injury as defined in ORS 161.015.*

(3) *Subsection (1) of this section applies regardless of whether the farming or forest practice has undergone any change or interruption. [1993 c.792 §34; 1995 c.547 §8; 1995 c.703 §3; 2001 c.401 §1]*

30.937 Immunity from private action based on farming or forest practice allowed as preexisting nonconforming use; exceptions.

(1) *No farming or forest practice allowed as a preexisting nonconforming use shall give rise to any private right of action or claim for relief based on nuisance or trespass.*

(2) *Subsection (1) of this section shall not apply to a right of action or claim for relief for:*

(a) *Damage to commercial agricultural products; or*

(b) *Death or serious physical injury as defined in ORS 161.015.*

(3) *Subsection (1) of this section applies only where a farming or forest practice existed before the conflicting nonfarm or nonforest use of real property that gave rise to the right of action or claim for relief.*

(4) *Subsection (1) of this section applies only where a farming or forest practice has not significantly increased in size or intensity from November 4, 1993, or the date on which the applicable urban growth boundary is changed to include the subject farming or forest practice within its limits, whichever is later. [1993 c.792 §35; 1995 c.703 §4]*

30.938 Attorney fees and costs. *In any action or claim for relief alleging nuisance or trespass and arising from a practice that is alleged by either party to be a farming or forest practice, the prevailing party shall be entitled to judgment for reasonable attorney fees and costs incurred at trial and on appeal. [1993 c.792 §36]*

30.939 When use of pesticide considered farming or forest practice.

(1) *Notwithstanding ORS 30.930 (2), the use of a pesticide shall be considered to be a farming practice for purposes of ORS 30.930 to 30.947, if the use of the pesticide:*

(a) *Is or may be used on a farm of a similar nature;*

(b) *Is a reasonable and prudent method for the operation of the farm to obtain a profit in money;*

(c) *Is or may become customarily utilized in conjunction with farm use;*

(d) *Complies with applicable laws; and*

(e) *Is done in a reasonable and prudent manner.*

(2) *Notwithstanding ORS 30.930 (4), the use of a pesticide shall be considered to be a forest practice for purposes of ORS 30.930 to 30.947, if the use of the pesticide:*

(a) *Is or may be used on forestland of a similar nature;*

(b) *Is a reasonable and prudent method of complying with ORS 527.610 to 527.770;*

(c) *Is or may become customarily utilized in conjunction with forestland;*

(d) *Complies with applicable laws;*

(e) *Is done in a reasonable and prudent manner; and*

(f) *Includes, but is not limited to, site preparation, timber harvest, slash disposal, road construction and maintenance, tree planting, precommercial thinning, release, fertilization, animal damage control and insect and disease control. [1993 c.792 §32a; 1995 c.703 §5]*

30.940 Effect on other remedies. *The provisions of ORS 30.930 to 30.947 shall not impair the right of any person or governmental body to pursue any remedy authorized by law that concerns matters other than a nuisance or trespass. [1981 c.716 §3; 1985 c.565 §5; 1993 c.792 §39]*

30.942 Rules.

(1) *The State Department of Agriculture may adopt rules to implement the provisions of ORS 30.930 to 30.947.*

(2) *The State Forestry Department may adopt rules to implement the provisions of ORS 30.930 to 30.947. [1993 c.792 §41]*

30.943 Certain agencies not required to investigate complaints based on farming or forest practice. *The Department of Environmental Quality, Department of State Lands, State Department of Agriculture or State Forestry Department is not required to investigate complaints if the agency has reason to believe that the complaint is based on practices protected by ORS 30.930 or 30.947. [1995 c.703 §8]*

30.947 Effect of siting of destination resorts or other nonfarm or nonforest uses. *The fact that a comprehensive plan and implementing ordinances allow the siting of destination resorts or other nonfarm or nonforest uses as provided in ORS 30.947, 197.435 to 197.467, 215.213, 215.283 and 215.284, does not in any way affect the provisions of ORS 30.930 to 30.947. [1987 c.886 §13; 1995 c.703 §6]*

30.949 Action for hindering, impairment or obstruction of forest practice on state forestland.

(1) *As used in this section:*

(a) *“Access road” means a road owned or maintained by the State Forestry Department.*

(b) *“Forest practice” has the meaning given that term in ORS 527.620.*

(c) *“State forestland” means:*

(A) *Forestland acquired under ORS 530.010 to 530.040; and*

(B) *Common School Forest Lands and Elliott State Forest Lands managed under ORS 530.490.*

(2) *A private entity that contracts with the State Forestry Department to perform a forest practice has a right of action for the amount of actual damages against any person that, while on state forestland or an access road on state forestland, intentionally commits an act that hinders, impairs or obstructs or is an attempt to hinder, impair or obstruct, the performance of the forest practice by the private entity. A court shall award a plaintiff prevailing under this section reasonable attorney fees and costs.*

(3) *If the contract between the private entity and the department provides for the private entity to perform forest practices in a defined area of state forestland that lies in more than one county, venue for a cause of action under this section is proper in any county containing part of the area of state forestland defined by the contract terms in effect on the date the cause of action arose.*

(4) *An action under this section must be commenced within two years after the date of the act giving rise to the cause of action. [2013 c.461 §1]*



Marijuana Land Use Advisory Task Force

Summary of Meeting #3

August 26, 2015, 6:30-8:30 p.m.; Development Services Building Auditorium

Attendance

Task Force Members: Amy Margolis, Emerge Law Group; Matt Wallstater, retailer; Mario Mamone, Maritime Café; Gerrick Latta, producer; Dr. Sarah Present, county public health officer; Shirley Morgan, community activist; Gabi Carnivali, Estacada CPO; Joe Mazzara, Villages at Mt. Hood; Bob Reeves, Villages at Mt. Hood; Norm Andreen, Planning Commission; Brian Pasko, Planning Commission; Lt. Jeff Davis, Clackamas County Sheriff's Office

County Staff: Mike McCallister, Planning Director; Nate Boderman, County Counsel; Ernest Hayes, Board of County Commissioners; Ellen Rogalin, Public & Government Affairs

WELCOME/INTRODUCTIONS

Mike McCallister welcomed everyone, asked task force members to introduce themselves and introduced county staff members and reviewed the documents in the meeting packet.

POLICY ISSUES DISCUSSION

Should marijuana growing and processing facilities be treated like other growing and processing facilities (e.g., hydroponic tomatoes, orchids) that are allowed in industrial zoning districts?

Mike noted that there are four industrial districts in the county – one industrial zone and three business parks. The question is whether marijuana growing and processing facilities should be allowed in these zones and what, if any, impact it might have on the availability of industrial land.

Discussion

- Most growing in Clackamas County is indoors or in greenhouses. You probably need a 40,000-sq.-ft. building for a 10,000-sq.-ft. canopy, and 11-12 employees. If that's not allowed in industrial areas, it will go to EFU areas. Most grow sites are very inconspicuous.
- The Planning Commission in its discussion on August 24 had a consensus on letting the market take care of any possible problems with availability of industrial land.
- Yes, it's appropriate for industrial zones.
- In Colorado, grows are only supposed to be in industrial areas. In Clackamas County, grows should only be allowed in EFU zones, with appropriate notification, setbacks, etc.
- I support using industrial lands, as we already do for other kinds of agricultural processing such as sunflowers and lavender. Growing is also ok in industrial areas.
- Processing in the industrial zone seems a given. Allowing growing associated with processing makes sense. But perhaps it doesn't make sense to just allow growing in the industrial areas.
- A grower can't process marijuana without a processing license.
- If we don't allow growing in industrial zones but only processing, will there be problems with bringing the crop from the grow site to the processing site?
- Having to transport the crop to a processing area adds costs, so it's not a good business practice.

- Colorado does allow both growing and processing in industrial lands. Why not allow safe, legal businesses in industrial areas?
- Is there any concern with cross-pollination? [Only with hemp; slightly possible with hops – but most people don't grow male plants.]
- There's no problem in industrial areas; the problem is in rural residential areas. There are huge amounts of under-utilized industrial land along Highway 212.
- Let the market determine what kind of business is in the industrial areas – it's really not a land use issue. There's a lot of undeveloped industrial land.
- What's the county's top priority for industrial lands and how does marijuana fit with that? [Mike – Jobs, a variety of target sectors.]

Should the county consider revising the medical marijuana time, place and manner ordinance adopted in April 2015?

Mike said Chapter 8.09 of the County Code, while called *Medical Marijuana Facilities*, actually applies to both medical and recreational facilities. It was adopted by the Board in April 2015 and limits dispensaries to commercial zoning districts inside the Metro Urban Growth Boundary. The county generally does allow other commercial uses in industrial zones, with a size limit.

The regulation also sets buffer areas between dispensaries and other dispensaries, schools, day care centers, etc. Buffers for recreational dispensaries will have to be reduced to 1,000 feet to be in compliance with new state law. Four medical dispensaries were grandfathered in to the county when the regulation was approved and two more have been approved since then.

Discussion

- Is the county considering allowing dispensaries outside the Metro UGB? [Mike – I don't know.]
- We only have one law enforcement officer for a 35-mile stretch of US 26. We should not re-visit the ordinance, which was proposed by a committee in the first place. A lot of illegal activity goes undetected because of a lack of law enforcement.
- Why was the Metro UGB set as a limit? [Nate – Public safety was the primary concern.]
- Other than the need to comply with the law, is there any interest by the Board of County Commissioners to change this regulation?
- We have three police cars in the Mt. Hood area 24/7 and a neighborhood watch program.
- We can now see how dispensaries function and if they lead to more crime or other problems. For now, tax revenue will be distributed to jurisdictions based on the number of recreational dispensaries, so there is incentive to allow more dispensaries. The market will regulate location.
- Not allowing dispensaries will just reinforce the illegal market.
- I'm torn between a sense of fair play and real or perceived security issues. Does the Sheriff's Office have the resources it needs?
- The BCC was worried about security about the Metro UGB, but also didn't want to broaden the discussion to those areas because of the limited stakeholder representation on the committee.
- We worked through that regulation thoroughly; it seems unnecessary to to revisit it.
- Estacada got a contract with Sandy for police services, so security issues aren't a big problem.
- If a marijuana facility helps prevent crime rather than cause it, the county should consider expending options. The situation has changed since this regulation was adopted in April.
- The Sheriff's Office has district cars, one at a time, assigned to rural areas. There are also state policy on US 26. The SO also has a take-home car policy, which doesn't necessarily mean the officer is available to help. We can't respond as quickly in the winter beyond Sandy as in other seasons, so we do have some concerns about response times to some areas then.
- The question is whether there is a need for additional response related to these facilities.

- It's not proven that this will be a problem – we need to be careful not to over-react to people's fears. Crime (robbery, guns) should be dealt with like any other business.
- At the BCC meetings I attended when this ordinance was discussed, the BCC said it might be appropriate to revisit the regulation over time.
- The buffers and setbacks are too big. It doesn't make sense to have more restrictive, or even different, rules for a medical facility than for a recreational facility. It's unfair to rural people who need access to medical marijuana. Buffers should be the same 1,000 feet for all and we should make sure people have the access they need to medical marijuana.
- My retail dispensary has operated four years and have never had a need to call the police. There are occasional robberies at dispensaries, just like at 7-11 stores, but no different. Let market forces run their course and treat medical and recreational marijuana facilities the same.
- There are no statistics on whether crime has gone up or down related to marijuana dispensaries.
- We don't need medical marijuana dispensaries for people in the rural areas. There have been four medical marijuana-related shootings in Multnomah County and 15 violent deaths related to medical marijuana in Colorado. There are problems because of large sums of cash.

OTHER TOPICS

State Health Caucus for the Democratic Party – Joe Mazzara reported on a meeting he attended this past weekend on marijuana issues. He said about 50 people were there representing all Oregon counties. There were concerns about financing (because marijuana businesses aren't allowed to use federal banks), medical and psychological issues. Most of the research so far hasn't been any good. Personally I see it as a gateway drug, but it doesn't lead to psychological problems. There's support for medical marijuana, but not for recreational marijuana – we just don't know enough yet.

Mike noted that the state law does include references to additional research.

Mitigation

Mike asked the group to spend some time talking about mitigation measure for the impacts identified at the first task force meeting.

- *Traffic*
 - Production and processing, unlike retail, want a minimum amount of traffic to increase security, reduce contamination, etc.
 - We don't necessarily need people working around the clock.
 - There are pick-ups, cargo vans, box trucks – not semi-trucks
 - We already have traffic studies for industrial zones
 - Can we do home occupations in rural residential areas?
 - What about EFU/Ag/Forest/TBR?
 - I've seen 80-150 cars/day at facilities. [Mike – That's not allowed under current zoning.]
 - Semi-trailers are used as storage facilities and look bad.
- *Lighting*
 - Black-out curtains that go up the sides and top of the greenhouse can be used in greenhouses after dusk
 - Outdoor only use lights for a few hours in the evening and during short periods of the year
 - Lighting above the plants, focusing down with a reflector around the bulb
 - It's not an issue outdoors in Clackamas County
 - Limit hours unless curtains are up
 - Appropriate hours of operation – limited light hours will limit production
 - Outdoor lights are very rare for outdoor grows
 - No lights allowed for outdoor grows (except required security lighting)

- *Odor*
 - Recent Court of Appeals ruling is that marijuana smoke is not legally offensive – you need to consider intensity, duration and frequency
 - Carbon filtration indoors -- \$750 each – there’s an industry standard; change filters yearly
 - Use requirements already present in industrial areas, if any
 - Not much can be done with outdoor grows – odor would only be for 4-6 weeks; the important thing is to find the appropriate place for an outdoor grow
 - Can use mint and other fragrant plants outdoors
 - Ozone generators/UV light
 - Carbon/ozone also in greenhouses
 - Setbacks/buffers
 - Is odor really a problem?
 - It smells like “skunk dipped in turpentine and gym socks”
 - It’s 100% controllable
 - 100-ft setback not enough for noise or odors
 - Have some setbacks now in rural residential areas

- *Public Access/Security*
 - Portland allows no public access for producers, processors and wholesalers
 - Marijuana business people have insurance; if there’s a problem, employees are instructed to hand over the marijuana, not fight to keep it
 - Growers don’t want public access
 - There are lots of security rules in place, including cameras and alarms
 - OLCC can also link in to the security systems
 - Who’s responsible for enforcement?
 - Large operations with invasive cameras are a problem
 - Neighbors should have the right not to have surveillance on their property in residential areas

- *Other*
 - Are HIPA violations related to notifications on medical grows? [It’s not covered under federal law.]
 - The business is trying to lead in energy efficiency; suggest providing incentives
 - Energy efficiency practices
 - Cutting down trees for grows [The county doesn’t regulate that in rural areas.]

Code Enforcement

Mike said the county has a code enforcement division that uses a complaint-driven system. Because of limited resources, they also rely on a priority system, which means that complaints that are not related to life, health and safety may not be responded to. Staff does not drive around looking for violations. Violations related to electrical, plumbing, building safety, etc. will always rise to the top.

Jeff – The Sheriff’s Office expects to have lots of people calling about public use and intoxicated drivers, etc. which they’ll deal with as they do now. The SO has no authority to inspect grow operations; we’re only concerned if there’s a crime. We can call to get the number of medical cards associated with a specific address, but won’t get names. The cap on the number of cards in the state law will help. We don’t know what, if any, problems there will be, and good relations with people in the industry will certainly help. Illegal grows have caused a lot of damage, but hopefully that problem will go away now.

Discussion

- We're more likely to get complaints about indoor and greenhouse grows about growers who aren't good neighbors, than complaints about outdoor grows.
- Marijuana facilities will be required to be open to inspections. OLCC will have authority just like they do over bars and taverns. There will be announced and unannounced inspections. The OLCC will be able to cite us and invite law enforcement to be present.
- Code Enforcement does a great job, but there are only four of them. This will put more pressure on them.

WRAP-UP AND ADJOURN

Mike reviewed the schedule of upcoming meetings and asked the group if they would like to meet one more time to review the draft regulations once they are released on Sept. 21. The group said they would, and Mike will schedule a meeting with the task force and Planning Commission.

Mike thanked everyone for their helpful and respectful participation, let them know that they are on the mailing list for future notifications and encouraged them to remain involved in the process.