

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Study Session Worksheet

Presentation Date: July 21, 2015 **Approx Start Time:** ~~1:30~~^{2:00} pm **Approx Length:** 2 hours

Presentation Title: 1) Update on Marijuana Legislation;
2) Consider Initiation of a ZDO Amendment for Recreational and Medical Marijuana Land Uses and
3) Consider Changes to the Planning and Zoning Division Work Program for 2015-16

Department: Planning and Zoning Division

Presenters: Mike McCallister, Planning Director
Gary Schmidt, Public and Governmental Affairs

Other Invitees: Barb Cartmill, DTD Director
Dan Johnson, Asst. DTD Director
Dan Chandler, County Administration
Stephen Madkour, County Counsel
Nate Boderman, Asst. County Counsel
Ellen Rogalin, PGA/DTD

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Staff requests Board direction on two issues: initiation of a Zoning and Development Ordinance (ZDO) amendment to consider new land use regulations related to medical and recreational marijuana, and changing the Planning and Zoning Division Work Program for 2015-16.

EXECUTIVE SUMMARY:

In 2014, Oregon voters approved Ballot Measure 91 – the *Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act* -- which authorizes and regulates the use of recreational marijuana.

1. The home grow/personal possession provisions of Measure 91 became effective July 1, 2015.
2. The remainder of Measure 91 -- to allow commercial production, processing, wholesaling and retailing of recreational marijuana-- is contingent upon the Oregon Liquor Control Commission (OLCC) completing required rule-making and accepting license applications. The OLCC is required to adopt rules no later than January 1, 2016 and begin accepting applications January 4, 2016.

On April 16, 2015, the Clackamas County Board of County Commissioners (BCC) adopted a "time, place and manner" ordinance (No. 04-2015) regulating all marijuana dispensaries.

On April 21, 2015, the BCC held an informational policy session and update on marijuana issues, and directed staff to schedule another policy session after the 2015 state legislative session to consider adopting land use regulations for marijuana facilities.

The 2015 State Legislature approved five bills related to marijuana. Attachments 1 and 2 provide summaries of the bills and provisions from the Association of Oregon Counties. A brief overview of the five bills follows.

1. **House Bill 3400** amends Ballot Measure 91 and operatively incorporates regulations for both recreational and medical marijuana. The Governor signed the bill on June 30, 2015 and it took effect the same day.

The bill allows for local opt out of any one or more of six categories of marijuana businesses – recreational (producer, processor, wholesaler, retailer) and medical (processor and dispensary). Specifically, a county or city governing body may impose a temporary moratorium until the next general election (November 2016). If a county or city opts out of any category, it is prohibited from the local option tax and disqualified from receiving any shared state tax revenue. (The local option tax, not to exceed 3%, may be imposed on the sale of recreational marijuana items if approved by local voters at a general election.)

The bill also grandfathers existing medical processors and dispensaries that have successfully completed the local land use process.

2. **Senate Bill 460A** (Early Start), which has not yet been signed by the Governor, allows medical marijuana dispensaries to sell limited recreational marijuana products beginning October 1, 2015 (i.e. recreational marijuana seeds, leaves, flowers and non-flowering plants). The sale can only occur in existing licensed medical marijuana facilities that are already authorized under the County's time, place and manner ordinance and they will still be subject to the County's time, place and manner regulations. Therefore, staff does not believe additional land use regulations are necessary before October 1, 2015 to allow the sale of these products.

SB 460 does authorize the County to adopt ordinances to prohibit the sale of limited recreational marijuana products on October 1, 2015. Effectively that would mean any retail sales of recreational marijuana would not be authorized until a dispensary receives a license from the OLCC in 2016 and the facility is allowed under the County ZDO.

3. **House Bill 2041**, which currently awaits the Governor's signature, imposes a 17% point of sale state tax on recreational marijuana products, with a net distribution formula of:
 - a. 40% to the Common School Fund,
 - b. 25% to substance abuse treatment and prevention,
 - c. 15% to the Oregon State Police, and
 - d. 10% to cities & 10% to counties to help enforce Measure 91.

The bill also disqualifies a county or city from receiving any distributions if the county or city prohibits any one or more of the six categories of marijuana business licensees (noted in #1 above). In addition, the bill imposes a 25% "early start" point of sale tax from January 4, 2016 to December 31, 2016, on all recreational marijuana sales taking place in medical marijuana dispensaries.

4. **Senate Bill 844**, which has not yet been signed by the Governor, includes miscellaneous provisions to establish a research task force and other operative provisions for medical marijuana caregivers and cardholders.
5. **Senate Joint Memorial 12** urges the US Congress to declassify marijuana so issues relating to research and banking can be addressed.

The BCC now has the option to initiate a ZDO amendment on medical and recreational marijuana-related land issues.

Planning and Zoning Division Work Program:

The focus of the Planning and Zoning Division's work program for the last three years has been the audit of the ZDO, a project that has been expected to continue through June, 2017. Although a substantial amount of work has been completed, the project is approximately six months behind schedule, and several challenging sections of the ZDO remain to be audited and updated. One of the tasks from the 2014-15 work program, the audit of ZDO Section 1000, is in process but not complete.

The adopted work program for 2015-16 includes auditing ZDO Sections 700 and 800, as well as adopting marijuana regulations. It has become clear that the work program is overly ambitious given available staffing resources.

The Division's day-to-day workload of public service and land use application processing has increased as the economy has improved, and the timeline for adopting ZDO amendments for marijuana land uses is short if the regulations are to be in place before the OLCC begins to accept license applications in early January 2016. Drafts of the amendments and notice to the Department of Land Conservation and Development are due the first week of September.

FINANCIAL IMPLICATIONS:

Funding: All program work will be completed by Planning and Zoning Division staff with support from PGA staff for public outreach and coordination.

LEGAL/POLICY REQUIREMENTS:

Legislative action is needed to consider amendments to the ZDO to address marijuana land uses. Type IV legislative land use proposals may be initiated by the Board of County Commissioners, Planning Commission or Planning Director (Section 1307.07B of the ZDO).

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 Measure 91 and HB 3400.

HB 3400 in some regards is restrictive and limits the County's regulatory authority (i.e. growing marijuana in EFU districts) and in other cases is silent on many issues and provides the County broad policy discretion.

PUBLIC/GOVERNMENTAL PARTICIPATION: To the extent an amendment to the ZDO is initiated, 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., newspaper, website, community planning organizations / hamlets / villages, other interested parties). A schedule of the proposed public outreach, study sessions and public hearings for this amendment is included as Attachment 3.

In anticipation of a ZDO amendment being initiated and the short time frame to adopt amendments, on July 14, 2015 the BCC agreed to establish a task force as part of the public outreach program. Staff is in the process of identifying members of the task force and meeting dates in late July and August.

OPTIONS:

1. Take no action. In the absence of amending the ZDO, marijuana land uses will be reviewed in the context of HB 3400, existing ZDO provisions, and the adopted time, place and manner ordinance for dispensaries. The Planning and Zoning Division work program will remain as is, with ZDO audit work continuing without a break.
2. Initiate a ZDO amendment to address marijuana-related land uses, and proceed with the amendment based on the general public outreach and hearing schedule as identified in Attachment 3. The Planning and Zoning Division work program will be amended to focus on marijuana-related amendments through the end of 2015 and return to the ZDO audit schedule in January 2016.
3. Adopt an ordinance prohibiting the sale of "limited recreational marijuana products" by medical marijuana dispensaries beginning October 1, 2015.

RECOMMENDATION:

Staff recommends Option #2, that the BCC initiate a ZDO amendment to address marijuana-related land uses, and proceed with the amendment based on the general public outreach and hearing schedule as identified in Attachment 3.

ATTACHMENTS:

1. *Brief Summary of 2015 Oregon Marijuana Legislation, AOC*
2. *Selected Provisions of 2015 Oregon Marijuana Legislation, AOC*
3. *Proposed public outreach program and public hearing schedule*

SUBMITTED BY:

Division Director/Head Approval Mike McCallister
Department Director/Head Approval M. B. Conroy 7-15-15
County Administrator Approval _____

For information on this issue or copies of attachments, please contact Mike McCallister @ 503-742-4522

Brief Summary of 2015 Oregon Marijuana Legislation

As of July 7, 2015

I. House Bill 3400 (Omnibus Bill)
A. Local Option (Sections 133 to 136)

- Provides two paths for local opt out of any one or more category of marijuana businesses. There are four retail categories (producer, processor, wholesaler, retailer) and two medical categories (processor and dispensary):
 - 1. Opt out by action of the county or city governing body for counties, and cities in counties, that voted against Measure 91 by at least 55 percent (Baker, Crook, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wheeler).
 - Opt out must be done within 180 days of the effective date of HB 3400A.
 - Grandfathering for existing medical processors and dispensaries that have successfully completed the local land use process.
 - If a county or city opts out of any category, local option tax (*see below*) is prohibited, as well as disqualification for shared state tax revenue (*see below*).
 - 2. Opt out by local vote referred by any county or city governing body.
 - Temporary moratorium until election.
 - Election must be held at the next general election (November of even-numbered year).
 - Grandfathering for existing medical processors and dispensaries that have successfully completed the local land use process.
 - If a county or city opts out of any category, local option tax (*see below*) is prohibited, as well as disqualification for shared state tax revenue (*see below*).

B. Local Time, Place and Manner Regulations (Sections 33 and 89)

- Clarifies reasonable time, place and manner regulatory authority over marijuana businesses.

C. Land Use (Section 34)

- Marijuana given status as a farm crop.
- In EFU zones, prohibits farm stands, farm commercial activities, and new farm dwellings based on marijuana crops.
- Allows counties to permit marijuana crops in farm and forest zones, similar to EFU.
- Requires a completed Land Use Compatibility Statement (LUCS) from local government prior to issuance of marijuana business license by OLCC.

D. Local Option Tax (Section 34a)

- Allows local tax on sale of retail marijuana items, if approved by local voters at a general election, not to exceed 3 percent.
- Prohibits local option tax if city or county prohibits any category of marijuana business.

E. OLCC

- Expands powers and duties relating to regulation, investigation, and enforcement with regard to OLCC licensed marijuana businesses.
- Requires handler permit for employees of retail marijuana businesses that handle marijuana.
- Requires a seed-to-sale tracking system.
- Allows OLCC to require age verification scanners for licensed retail stores.
- Provides for state licensed testing laboratories to test all retail marijuana products.
- Provides for packaging, labeling, and dosage standards.
- Provides for state certified public and private research facilities.
- Allows medical marijuana growers to opt-in to the retail marijuana supply chain to sell excess medical marijuana, subject to licensing and regulation by OLCC.

F. OMMA
Tracking

- Requires registration and tracking of all grow sites, processing sites, and dispensaries in an OHA database.
- Requires designated growers, processors, and dispensaries to submit monthly information to the database regarding amounts possessed and transferred.
- Permits law enforcement, and city and county regulatory agencies, to access database, except for transaction information, which requires a subpoena.

Growers and Processors

- Requires registration of designated grow sites and processing sites.
- Prohibits persons convicted of certain drug crimes from being the designated person responsible for a site.

- Authorizes OHA to inspect sites, and records related to those sites.
- Authorizes OHA to revoke the registration of a site for violation of the OMMA, or local time, place, and manner ordinances.
- Limits the number of plants that may be grown at a single address:
 - 12 mature plants in residential zone in city, with up to 24 for grandfathered sites.
 - 48 mature plants in all other zones, with up to 96 for grandfathered sites.
- Allows designated grower to possess usable marijuana at the rate of 12 pounds per mature outdoor plant, and 6 pounds per mature indoor plant.
- Allows cardholder to assign a portion of the cardholder's possession rights to their designated grower.
- Prohibits marijuana extract processing sites in residential zones.

Dispensaries

- Authorizes OHA to revoke the registration of a dispensary for violation of the OMMA, or local time, place, and manner ordinances.
- Prohibits dispensaries in residential zones.
- Allows dispensary to remain registered if a school opens within 1,000 feet of the dispensary after the dispensary is already operating.

Products and Testing

- Provides for testing of all marijuana items, and requires testing laboratories to be licensed by OHA.
- Provides OHA with regulatory authority over testing, and the production of edibles, extracts, concentrates, and other products.
- Imposes requirements for labeling and packaging.

G. Further Reduction in Marijuana Offense Levels (*see separate pamphlet*)

2. Senate Bill 460A ("Early Start")

- Allows medical marijuana dispensaries to sell limited marijuana retail products, beginning October 1, 2015
 - Seeds.
 - Dried leaves and flowers.
 - *Plants that are not flowering.*
- Limits amount that can be sold to each customer.
- Allows cities and counties to prohibit these retail sales by ordinance.

3. House Bill 2041 (Retail Taxation)

- State tax on sale of retail products, in lieu of Measure 91 tax on grower products:
 - 17% tax rate (but see "Early Start" special rate below).
- Retains net distribution formula from Measure 91
 - 40% to the Common School Fund.
 - 25% to substance abuse treatment and prevention.
 - 15% to the Oregon State Police.
 - 10% to cities, and 10% to counties, to assist with enforcing Measure 91.
- Disqualifies a city or county from receiving any distribution if the city or county prohibits any one or more of the six categories of marijuana business licensees.
- "Early Start" special tax rate:
 - 25% tax rate, beginning January 4, 2016.

4. Senate Bill 844 (Miscellaneous)

- Research task force
- Reduces expunction waiting period from three years to one year for person adjudicated or convicted of marijuana offenses when they were under 21.
- Changes OMMA "agitation incident to Alzheimer's disease" qualifying condition to "a degenerative or pervasive neurological condition."
- Allows certain medical organizations to be a designated OMMA caregiver.
- Prohibits transplant hospitals from discriminating against OMMA cardholders.

5. Senate Joint Memorial 12 (Urging Congress to Declassify Marijuana)

- Urges Congress to declassify marijuana, so issues relating to research and banking can effectively be addressed.

Selected Provisions of 2015 Oregon Marijuana Legislation**1. House Bill 3400A (Omnibus Bill)****A. Local Option (Sections 133 to 136)****LOCAL OPTION
EFFECTIVE ON PASSAGE**

SECTION 133. (1) As used in this section, “qualifying city or county” means a county, or a city located in a county, in which not less than 55 percent of votes cast in the county during the statewide general election held on November 4, 2014, on Ballot Measure 91 (chapter 1, Oregon Laws 2015) were in opposition to the ballot measure.

(2)(a) The governing body of a qualifying city or county may adopt ordinances that prohibit the establishment of any one or more of the following in the area subject to the jurisdiction of the city or the unincorporated area subject to the jurisdiction of the county:

- (A) Marijuana processing sites registered under section 85 of this 2015 Act;
- (B) Medical marijuana dispensaries registered under ORS 475.314;
- (C) Marijuana producers licensed under section 19, chapter 1, Oregon Laws 2015;
- (D) Marijuana processors licensed under section 20, chapter 1, Oregon Laws 2015;
- (E) Marijuana wholesalers licensed under section 21, chapter 1, Oregon Laws 2015;
- (F) Marijuana retailers licensed under section 22, chapter 1, Oregon Laws 2015; or
- (G) Any combination of the entities described in this subsection.

(b) The governing body of a qualifying city or county may not adopt an ordinance under this section later than 180 days after the effective date of this 2015 Act.

(3) If the governing body of a qualifying city or county adopts an ordinance under this section, the governing body must provide the text of the ordinance:

(a) To the Oregon Health Authority, in a form and manner prescribed by the authority, if the ordinance concerns a medical marijuana dispensary registered under ORS 475.314 or a marijuana processing site registered under section 85 of this 2015 Act; or

(b) To the Oregon Liquor Control Commission, if the ordinance concerns a premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015.

(4)(a) Upon receiving notice of a prohibition under subsection (3) of this section, the authority shall discontinue registering those entities to which the prohibition applies.

(b) Upon receiving notice of a prohibition under subsection (3) of this section, the commission shall discontinue licensing those premises to which the prohibition applies.

(5) Notwithstanding any other provisions of law, a qualifying city or county that adopts an ordinance under this section may not impose a tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated.

(6) Notwithstanding subsection (2) of this section, a medical marijuana dispensary is not subject to an ordinance adopted under this section if the medical marijuana dispensary:

(a) Is registered under ORS 475.314 on or before the date on which the governing body adopts the ordinance; and

(b) Has successfully completed a city or county land use application process.

(7) Notwithstanding subsection (2) of this section, a marijuana processing site is not subject to an ordinance adopted under this section if the marijuana processing site:

- (a) Is registered under section 85 of this 2015 Act on or before the date on which the governing body adopts the ordinance; and
- (b) Has successfully completed a city or county land use application process.

SECTION 134. (1) The governing body of a city or county may adopt ordinances to be referred to the electors of the city or county as described in subsection (2) of this section that prohibit or allow the establishment of any one or more of the following in the area subject to the jurisdiction of the city or the unincorporated area subject to the jurisdiction of the county:

- (a) Marijuana processing sites registered under section 85 of this 2015 Act;
- (b) Medical marijuana dispensaries registered under ORS 475.314;
- (c) Marijuana producers licensed under section 19, chapter 1, Oregon Laws 2015;
- (d) Marijuana processors licensed under section 20, chapter 1, Oregon Laws 2015;
- (e) Marijuana wholesalers licensed under section 21, chapter 1, Oregon Laws 2015;
- (f) Marijuana retailers licensed under section 22, chapter 1, Oregon Laws 2015; or
- (g) Any combination of the entities described in this subsection.

(2) If the governing body of a city or county adopts an ordinance under this section, the governing body shall submit the measure of the ordinance to the electors of the city or county for approval at the next statewide general election.

(3) If the governing body of a city or county adopts an ordinance under this section, the governing body must provide the text of the ordinance:

- (a) To the Oregon Health Authority, in a form and manner prescribed by the authority, if the ordinance concerns a medical marijuana dispensary registered under ORS 475.314 or a marijuana processing site registered under section 85 of this 2015 Act; or
- (b) To the Oregon Liquor Control Commission, if the ordinance concerns a premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015.

(4)(a) Upon receiving notice of a prohibition under subsection (3) of this section, the authority shall discontinue registering those entities to which the prohibition applies until the date of the next statewide general election.

(b) Upon receiving notice of a prohibition under subsection (3) of this section, the commission shall discontinue licensing those premises to which the prohibition applies until the date of the next statewide general election.

(5) Notwithstanding any other provisions of law, a city or county that adopts an ordinance under this section that prohibits the establishment of an entity described in subsection (1) of this section may not impose a tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated.

(6) Notwithstanding subsection (1) of this section, a medical marijuana dispensary is not subject to an ordinance adopted under this section if the medical marijuana dispensary:

- (a) Is registered under ORS 475.314 on or before the date on which the governing body adopts the ordinance; and
- (b) Has successfully completed a city or county land use application process.

(7) Notwithstanding subsection (1) of this section, a marijuana processing site is not subject to an ordinance adopted under this section if the marijuana processing site:

- (a) Is registered under section 85 of this 2015 Act on or before the date on which the governing body adopts the ordinance; and
- (b) Has successfully completed a city or county land use application process.

SECTION 135. (1) Notwithstanding sections 133 and 134 of this 2015 Act, a medical marijuana dispensary is not subject to an ordinance adopted pursuant to section 133 or 134 of this 2015 Act if the medical marijuana dispensary:

(a) Was registered under ORS 475.314, or has applied to be registered under ORS 475.314, on or before July 1, 2015; and

(b) Has successfully completed a city or county land use application process.

(2) This section does not apply to a medical marijuana dispensary if the Oregon Health Authority revokes the registration of the medical marijuana dispensary.

SECTION 136. (1) Notwithstanding sections 133 and 134 of this 2015 Act, a marijuana processing site is not subject to an ordinance adopted pursuant to section 133 or 134 of this 2015 Act if the person responsible for the marijuana processing site or applying to be the person responsible for the marijuana processing site:

(a) Was registered under ORS 475.300 to 475.346 on or before July 1, 2015;

(b) Was processing usable marijuana as described in section 85 (1) of this 2015 Act on or before July 1, 2015; and

(c) Has successfully completed a city or county land use application process.

(2) This section does not apply to a marijuana processing site if the Oregon Health Authority revokes the registration of the marijuana processing site.

B. Local Time, Place and Manner Regulations (Sections 33 and 89)

SECTION 33. (1) For purposes of this section, "reasonable regulations" includes:

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

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

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

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

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

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

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

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

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

SECTION 89. (1) For purposes of this section, “reasonable regulations” includes:

(a) Reasonable limitations on the hours during which the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary may operate;

(b) Reasonable conditions on the manner in which a marijuana processing site or medical marijuana dispensary may transfer usable marijuana, medical cannabinoid products, cannabinoid concentrates, cannabinoid extracts, immature marijuana plants and seeds;

(c) Reasonable requirements related to the public’s access to the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary; and

(d) Reasonable limitations on where the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary may be located.

(2) Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of marijuana grow sites of persons designated to produce marijuana by registry identification cardholders, marijuana processing sites and medical marijuana dispensaries that are located in the area subject to the jurisdiction of the city or county.

C. Land Use (Section 34)

SECTION 34. (1) Notwithstanding any other provision of law, marijuana is:

(a) A crop for the purposes of “farm use” as defined in ORS 215.203;

(b) A crop for purposes of a “farm” and “farming practice,” both as defined in ORS 30.930;

(c) A product of farm use as described in ORS 308A.062; and

(d) The product of an agricultural activity for purposes of ORS 568.909.

(2) Notwithstanding ORS chapters 195, 196, 197 and 215, the following are not permitted uses on land designated for exclusive farm use:

(a) A new dwelling used in conjunction with a marijuana crop;

(b) A farm stand, as described in ORS 215.213 (1)(r) or 215.283 (1)(o), used in conjunction with a marijuana crop; and

(c) A commercial activity, as described in ORS 215.213 (2)(c) or 215.283 (2)(a), carried on in conjunction with a marijuana crop.

(3) A county may allow the production of marijuana as a farm use on land zoned for farm or forest use in the same manner as the production of marijuana is allowed in exclusive farm use zones under this section and ORS 215.213 and 215.283.

(4)(a) Prior to the issuance of a license under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, the Oregon Liquor Control Commission shall request a land use compatibility statement from the city or county that authorizes the land use. The land use compatibility statement must demonstrate that the requested license is for a land use that is allowable as a permitted or conditional use within the given zoning designation where the land is located. The commission may not issue a license if the land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.

(b) A city or county that receives a request for a land use compatibility statement under this subsection must act on that request within 21 days of:

(A) Receipt of the request, if the land use is allowable as an outright permitted use; or

(B) Final local permit approval, if the land use is allowable as a conditional use.

(c) A city or county action concerning a land use compatibility statement under this subsection is not a land use decision for purposes of ORS chapter 195, 196, 197 or 215.

D. Local Option Tax (Section 34a)

SECTION 34a. (1)(a) Except as expressly authorized by this section, the authority to impose a tax or fee on the production, processing or sale of marijuana items in this state is vested solely in the Legislative Assembly.

(b) Except as expressly authorized by this section, a county, city or other municipal corporation or district may not adopt or enact ordinances imposing a tax or fee on the production, processing or sale of marijuana items in this state.

(2) Subject to subsection (4) of this section, the governing body of a city or county may adopt an ordinance to be referred to the electors of the city or county as described in subsection (3) of this section that imposes a tax or a fee on the sale of marijuana items that are sold in the area subject to the jurisdiction of the city or the unincorporated area subject to the jurisdiction of a county by a person that holds a license under section 22, chapter 1, Oregon Laws 2015.

(3) If the governing body of a city or county adopts an ordinance under this section, the governing body shall refer the measure of the ordinance to the electors of the city or county for approval at the next statewide general election.

(4) An ordinance adopted under this section may not impose a tax or fee in excess of 3 percent.

2. Senate Bill 460A (“Early Start”)

SECTION 2. (1) As used in this section:

(a) “Limited marijuana retail product” means:

- (A) The seeds of marijuana;
- (B) The dried leaves and flowers of marijuana; and
- (C) A marijuana plant that is not flowering.

(b) “Marijuana” means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(c) “Medical marijuana dispensary” means an entity registered with the Oregon Health Authority under ORS 475.314.

(2) Notwithstanding any other provision of law, on and after October 1, 2015, a medical marijuana dispensary may sell limited marijuana retail product to a person who is 21 years of age or older if:

(a) The person presents proof of age to the medical marijuana dispensary before entering into the medical marijuana dispensary;

(b) The medical marijuana dispensary verifies that the person is 21 years of age or older at the time of the sale;

(c) The medical marijuana dispensary sells no more than one-quarter ounce of limited marijuana retail product to the person per day if the person is purchasing the dried leaves and flowers of marijuana; and

(d) The medical marijuana dispensary sells no more than four units of limited marijuana retail product to the person if the person is purchasing a marijuana plant that is not flowering.

(3) A city or county may adopt ordinances prohibiting the sale of limited marijuana retail product as described in this section in the area subject to the jurisdiction of the city or the unincorporated area subject to the jurisdiction of the county.

(4) The authority shall adopt rules to implement this section, including rules that:

(a) Are necessary to ensure the public health and safety; and

(b) Ensure that a medical marijuana dispensary complies with this section.

(5) The authority may prohibit a medical marijuana dispensary from selling limited marijuana retail product as described in this section if the medical marijuana dispensary violates this section.

SECTION 3. Section 2 of this 2015 Act is repealed on December 31, 2016.



DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

ZDO AMENDMENT – MARIJUANA LAND USES

**Proposed Public Meeting & Outreach Schedule
July-December 2015**

Public outreach will be ongoing throughout the process, including a website, social media, news releases, presentations to community and business groups (as time allows), email information, newsletter articles, etc.

Public Meetings and Hearings

- July 14: Board of County Commissioners (BCC) Issues Session – BCC authorizes establishment of marijuana task force
- July 21: BCC Policy Session – BCC initiates ZDO amendment
- July 27: Planning Commission / BCC joint study session
- August: Advisory Committee meetings (2 - 3); public outreach
- Sept. 2: Community Leaders Meeting (CLM) – presentation by staff
- Sept. 3: ZDO drafts completed; 35-day notice mailed to Oregon Department of Land Conservation and Development (DLCD)
- Oct. 12: First Planning Commission public hearing
- Oct. 26: Second (continued) Planning Commission public hearing, if needed
- Early Nov. BCC planning session
- Nov. 18: First BCC public hearing
- Dec. 2: Second BCC public hearing
- Dec. 9: County Counsel prepares final Ordinance
- Dec. 17: BCC business meeting – approval of Ordinance