



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: 12/08/2014
Jurisdiction: City of La Grande
Local file no.: 01-ZON-14
DLCD file no.: 001-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 12/05/2014. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD less than 35 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
File No.: 001-14 {22330}
Received: 12/5/2014

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of La Grande

Local file no.: **01-ZON-14**

Date of adoption: October 1, 2014

Date sent: 12/5/2014

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): July 8, 2014

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

Local contact (name and title): Michael Boquist, City Planner

Phone: 541-962-1307

E-mail: mboquist@cityoflagrande.org

Street address: 1000 Adams Avenue/PO Box 670

City: La Grande

Zip: 97850

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- | | | | |
|-------------|----|--------|--|
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this change. |

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

Added a new Article 3.21 governing medical and recreational marijuana facilities.

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address): City Wide (Only within City Limits)

List affected state or federal agencies, local governments and special districts: City of La Grande

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

**CITY of LA GRANDE
"LAND DEVELOPMENT CODE" AMENDMENT
ORDINANCE NUMBER 3215
SERIES 2014**

**"AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA GRANDE, UNION COUNTY,
OREGON, AMENDING ORDINANCE NUMBER 3210, SERIES 2013, OF THE CITY OF LA GRANDE,
UNION COUNTY, OREGON, ADDING NEW ARTICLE 3.21 ESTABLISHING RULES FOR MARIJUANA
FACILITIES; AND DECLARING AN EFFECTIVE DATE"**

WHEREAS, On March 19, 2014, Senate Bill 1531 was signed into law, giving local jurisdictions the ability to adopt regulations governing the operations of medical marijuana facilities; and,

WHEREAS, a periodic amendment of the Land Development Code is necessary to address issues with or to comply with recent State Legislation, to address citizen requests, and to address changing circumstances in the community; and,

WHEREAS, during a Special Session of the City Council, held on April 28, 2014, the Council directed Staff to proceed with the development and adoption of local regulations governing Medical Marijuana facilities in accordance with Senate Bill 1531; and,

WHEREAS, The City Council desires to include the sales of recreational marijuana under the same regulations should recreational marijuana become legalized in the State of Oregon under proposed Ballot Measure 91; and,

WHEREAS, after proper public notice, the Planning Commission has conducted the required Public Hearing to review these amendments and recommends that the proposed amendments be adopted by the City Council of the City of La Grande, Union County, Oregon; and,

WHEREAS, the City Council of the City of La Grande, Union County, Oregon, has conducted the required Public Hearings to consider the proposed amendments and finds that they would be in the best interests of the community; and,

WHEREAS, the Land Development Code, as adopted by Ordinance Number 3210, Series 2013, is proposed to be amended to include the following provisions.

THE CITY OF LA GRANDE ORDAINS AS FOLLOWS:

SECTION 1. The Land Development Code, as adopted by Ordinance Number 3210, Series 2013, shall be and hereby is amended, as provided in Exhibit A of this Ordinance.


SECTION 2. The City Council of the City of La Grande, Union County, Oregon, shall and hereby does adopt the Findings of Fact and Conclusions of Law in the City Council Staff Report, dated October 1, 2014.

City of La Grande Ordinance Number 3215
Series 2014
Land Development Code Amendment
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SECTION 3. Effective Date. This Ordinance shall become effective thirty (30) days after its adoption by the City Council of the City of La Grande, Union County, Oregon and its approval by the Mayor; specifically, October 31, 2014.

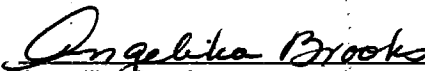
ADOPTED this First (1st) day of October, 2014, by Five (5) of Seven
(7) Councilors present voting in the affirmative.

APPROVED this First (1st) day of October, 2014.



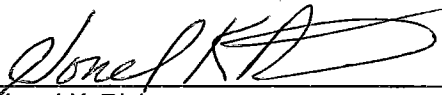
Daniel S. Pokorney
Mayor

ATTEST:



Angelika Brooks
City Recorder

APPROVED AS TO FORM AND CONTENT:



Jonel K. Ricker
Legal Counsel for City of La Grande

EXHIBIT A

ARTICLE 3.21 – MARIJUANA FACILITIES

SECTION 3.21.001 - PURPOSE

This Article establishes regulations for the siting of medical and recreational marijuana (MMJ) facilities as authorized by State Law. The purpose of this Article is to minimize adverse impacts on adjacent properties, schools and other places where children congregate, and other land uses potentially incompatible with such facilities.

SECTION 3.21.002 – GENERAL PROVISIONS

MMJ Facilities may be allowed, subject to a Conditional Use Permit pursuant to Article 8.5 of this Code, in the Central Business Zone (CB), General Commercial Zone (GC) and Light Industrial Zone (I-1). No MMJ facility may be located within the City unless the review authority finds that it satisfies all the requirements of this Code and State law.

MMJ facilities legally established pursuant to this Code shall not be found in conflict with the provision of this Code in the event that a conflicting land use locates in the vicinity of a MMJ facility subsequent to the MMJ facility obtaining land use approval from the City. When such conflict is found to exist, the MMJ facility shall be considered a legal nonconforming use and subject to provision set for in Article 3.14 of this Code.

SECTION 3.21.003 – DEFINITIONS INCLUDED BY REFERENCE

For the purposes of this Article, the following definitions shall be used.

CAREER SCHOOL – means any private proprietary professional, technical, business or other school instruction, organization or person that offers any instruction or training or preparing persons for any profession at a physical location attended primarily by minors.

MINOR – means an individual under the age of 18.

PRE-SCHOOL – means a school of instruction attended primarily by pre-kindergarten or age level equivalent (ages 2-5).

PRIMARY SCHOOL – (aka elementary school) means a learning institution containing one or any combination of grades kindergarten through 8th grade or age level equivalent.

SECONDARY SCHOOL – means a learning institution containing one or any combination of grades 9 through 12 or age level equivalent and includes those institutions that provide junior high schools which include 9th grade.

SECTION 3.21.004 – STANDARDS FOR MMJ FACILITIES

A. **Location.** A MMJ facility shall not be located:

1. At the same address as a registered grow site.
2. Within 1,000 feet of the real property comprising a:
 - a) Public or private preschool, elementary, secondary or career school attended primarily by minors; or,
 - b) Public library; or,
 - c) Public park; or,
 - d) Community recreation facility attended primarily by minors; or
 - e) Participant sports and recreation facility attended primarily by minors; or,

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Series 2014
Land Development Code Amendment
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- f) Licensed daycare center.
- 3. Within 1,000 feet of another MMJ facility.



CITY COUNCIL REGULAR SESSION

Wednesday, October 1, 2014

STAFF REPORT (REVISED)

Application Files: 01-ZON-14
Applicant: City of La Grande
Proposal: Land Development Code Amendment – Adopting New Rules
Governing Medical Marijuana Facilities

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FINDINGS OF FACT

1. PROPOSAL DESCRIPTION

The City of La Grande Planning Division is proposing the adoption of new regulations governing the location and operations of medical marijuana (MMJ) facilities within the City of La Grande, pursuant to Senate Bill 1531 and the direction of the City of La Grande City Council. The proposed regulations are provided in attached Exhibit 'A', titled, "Article 3.21 – Medical Marijuana Facilities."

On March 19, 2014, Senate Bill 1531 was signed into law, giving local jurisdictions the ability to adopt regulations governing the operations of MMJ facilities and to enact a moratorium on the operation of such facilities that could be effective for up to one year, until May 1, 2015. By majority vote of the City Council, during a Special Session held on April 28, 2014, the Council voted to not enact a moratorium. However, City staff was directed to expedite the development and adoption of local regulations.

In response to the City Council's direction, the City Planner hosted and facilitated a public meeting on June 2, 2014, for interested parties to participate to discuss and help develop local rules governing the location and operation of MMJ facilities within the City of La Grande. The meeting was attended by approximately 20 people, which included MMJ dispensary owners, business owners, representatives from public agencies, interested citizens and 2 media representatives. The results of this meeting are provided in attached Exhibit 'B' – *Meeting Summary for Proposed Rules Governing Medical Marijuana Facilities*. The proposed Land Development Code amendments are based on similar Ordinances adopted by Klamath Falls, Albany, Ashland, and on the consensus reached by the meeting participants, which generally includes the following provisions:

1. An MMJ Facility shall only be allowed by Conditional Use Permit
2. An MMJ Facility shall only be located within the Central Business Zone (CB), General Commercial Zone (GC) and the Light Industrial Zone (I-1)
3. An MMJ Facility shall not be located within 1000 feet of the following (illustrated in Map Exhibit D):
 - Any public or private preschool, primary, secondary or career school that includes a minimum of one or a combination of grades
 - Licensed daycare center (does not include licensed home daycare providers)
 - Public library
 - Public park
 - Youth recreation facility attended primarily by minors
 - Another registered dispensary licensed by the State of Oregon MMJ Dispensary Program

On August 13, 2014, the Planning Commission held a Public Hearing to consider this proposal. Public testimony was received from several parties suggesting that additional requirements be considered that include the following. Not all parties agreed with adding these elements.

- Hours of Operation: Limitation on business hours.
- Location: MMJ facilities shall not be located within 500 (or other distance) of a residential area.
- Sales Quantity: Limitations on the quantity or amount of MMJ that a customer can purchase at one time.
- Product: Regulations on packaging of certain types of product.
- Aesthetics: Regulations on signs, murals, lighting, fencing, and other aesthetic elements.

By unanimous vote, the Planning Commission recommended approval of the proposed Ordinance to the City Council, subject to adding a requirement to regulate the hours of operation from 8:00 a.m. to 10:00 p.m. The Commission asked that this requirement include the ability for the Commission to reduce or expand the hours of operation as part of considering the required Conditional Use Permit. Such consideration would be based on

compatibility issues with adjacent uses (e.g. residences and/or other businesses) and establishing operating hours that are similar to other nearby retail businesses.

On September 10, 2014, the City Council held a Public hearing to consider this proposal. A significant item discussed by the Council was the proposed requirement regulating hours of operation. Consideration was given to increasing the restrictions, as well as removing the operating hour restrictions altogether. Public testimony, neutral to the proposal, was heard from one party expressing opposition to the operating hour restriction. Such party felt that this restriction was based on a perceived conflict that did not currently exist and felt that such restriction was not necessary and was not fair to a business owner. Other Council discussion included the suggestion of adding Eastern Oregon University (EOU) to the list of uses subject to the 1000 foot buffer. This suggestion was based on the fact that high school students regularly attend classes and function at the University, the high school regularly utilizes the University's athletic complex, and there is a possible desire to protect the young college student age group from medical marijuana influences in a similar fashion as the K-12 age group is protected.

Subsequent to the September 10, 2014, City Council meeting, Staff considered the discussion of adding EOU to the list of uses subject to the 1000 foot buffer, but does not recommend such addition. This is because the proposed regulations are justified based on the State of Oregon's Findings and position that support Senate Bill 1531, which is based on marijuana facilities causing adverse effects on children in the Kindergarten through 12th Grade age range (K-12). The inclusion of EOU would not be consistent with this justification because the University is predominantly designed, operated and attended by adults. Staff does understand that the reasoning why some of the Councillors desire to include EOU in the 1000 foot buffer is because K-12 children occasionally attend classes and events at EOU, the high school football team occasionally uses the EOU sports facility, and there may be a desire to protect college students from the influences of marijuana. Unfortunately, including EOU in the 1000 foot buffer is not consistent with methodology and justification used to support the proposed regulations.

In addition to the reasons stated above, Staff does not recommend that the City pursue including EOU in the buffer zone because doing so could open the City up to challenges and the risk of losing all of the proposed regulations if the City is unsuccessful defending its position. Staff's recommendation is for the Council to adopt the current proposal and consider other options as part of a future Code amendment after sufficient research and justification has been developed.

In relation to regulating hours of operation, the Council asked Staff whether the City of La Grande Police Department has authority to regulate such requirement. In short, the Police Department does have the authority to enforce operating hours under the City's Enforcement Ordinance 3203, Series 2012. The City of La Grande Police Department, City Manager and City Manager Designees have the authority to enforce City regulations by this Ordinance.

Subsequent to the preparation of the October 1, 2014, Regular Session Council materials, but prior to the Council meeting, Staff was asked to research proposed Ballot Measure 91 (legalizing recreational marijuana) and whether it would be appropriate to amend the proposed Medical Marijuana Facilities Ordinance to include and address recreational marijuana.

Section 59 of proposed Ballot Measure 91 states, "*Cities and counties may adopt reasonable time, place and manner regulations of the nuisance aspects of establishments that sell marijuana to consumers if the city or county makes specific findings that the establishment would cause adverse effects to occur.*"

The authority granted to cities under Ballot Measure 91 is the same as what was granted under Senate Bill 1531, which allows cities to regulate “time, place and manner” for facilities that sell marijuana products. The Staff recommends the City of La Grande adopt proposed regulations based on the following Finding that the establishments would cause adverse effects to occur and the Ordinance has been revised to reflect this change. Per City Charter, to make this change the paragraphs related to this change would need to be read in their entirety prior to adoption.

Finding: The State of Oregon has already established, under Senate Bill 1531, that marijuana facilities will cause adverse effects on children in the Kindergarten through 12th Grade age range (K-12). To address the adverse effects, the State has established a 1000 foot buffer requirement prohibiting medical marijuana facilities from locating near schools. The City of La Grande agrees with the State, but feels that the 1000 foot buffer should be applied to all facilities that are predominantly designed, operated and attended by children Pre-K through 12th grade.

The concerns about the adverse effects caused by marijuana were further validated during a Work Session of the City Council held on September 22, 2014. Presentations were made by the City of La Grande Police Chief, Union County Sheriff, DA’s Office and concerned businesses owners and citizens. Representative from local law enforcement agencies presented facts stating that a high percentage of domestic violence cases and other violent crimes also included substance abuse, such as marijuana. And, many of the users of harder substances, such as heroin, cocaine, etc. started with the use of marijuana and later transitioned to harder drugs. Other testimony received included adverse impacts on the education system and health care, such as a dramatic increase in hospital emergency room visits within communities that have legalized marijuana, and an increased crime rate.

Because of these adverse impacts, the City of La Grande recognized a need to protect the youth in the community by establishing regulations on “time, place and manner” for marijuana facilities, for both medical and recreational sales facilities. The proposed regulations do not prohibit this new industry from locating with the City of La Grande, but places restrictions on where such facilities may locate to minimize the adverse effects and influences they may be caused on the local youth population.

2. SCHEDULE OF EVENTS

- | | |
|--|--|
| <p>April 28, 2014; and,
 May 7, 2014</p> | <p>City Council Special Session and Regular Session – Direction was given for Staff to develop and propose new land use regulations governing medical marijuana facilities.</p> |
| <p>May 12, 2014</p> | <p>A Public Meeting Notice was sent to individuals that provided testimony or otherwise participated at the April 28, 2014, City Council Special Session for the MMJ Moratorium consideration. Such notice invited interested parties to the June 2, 2014, public meeting.</p> |
| <p>May 28, 2014</p> | <p>A Revised Public Meeting Notice (changing the location of the meeting) was sent to same individuals as the May 12, 2014, Notice.</p> |
| <p>May 28, 2014, thru
 June 2, 2014</p> | <p>Public Meeting Announcements were aired multiple times on the KCMP and affiliated radio stations by Ken Kennedy.</p> |
| <p>May 30, 2014</p> | <p>Public Notice was published in <i>The Observer</i>, Briefly column, a newspaper of general circulation advertising the June 2, 2014, Public Meeting.</p> |
| <p>June 2, 2014</p> | <p>Public Meeting held from 6:00 to 7:45, at the Colleen F. Johnson Community Room at the City of La Grande Cook Memorial Library.</p> |
| <p>June 5, 2014</p> | <p>A Meeting Summary was mailed to all meeting participants.</p> |

July 1, 2014	Form 1 Notice was mailed to DLCD, with anticipated delivery on or before July 7, 2014. This Notice is required to be provided to DLCD a minimum of 35 days in advance of the first evidentiary hearing.
July 1, 2014	Public Notice to be circulated to the Development Review Committee, which consists of local Agencies and City Department; and to business owners, citizens and other interested parties that have participated in the prior MMJ meetings held by the City of La Grande or asked to be on the mailing list. (Note: Per Grant Young, DLCD, the adoption of the proposed rules does not require a Measure 56 Notice.)
July 21, 2014	Public Notice to be published in <i>The Observer</i> , a newspaper of general circulation advertising the August 13, 2014, Planning Commission Hearing, and September 10, 2014 City Council Hearing.
July 21, 2014	Public Meeting Announcements were requested to be aired on the KCMP and affiliated radio stations by Ken Kennedy.
August 5, 2014	The Planning Commission Staff Report is made available to the public.
August 13, 2014	First Evidentiary Hearing; Planning Commission Public Hearing.
August 22, 2014	Public Notice to be published in <i>The Observer</i> , a newspaper of general circulation advertising the September 10, 2014 City Council Hearing.
September 5, 2014	The City Council Staff Report (final version) is made available to the public. A draft version may be available prior to this date.
September 10, 2014	City Council Public Hearing – First Reading of Ordinance is scheduled.
October 1, 2014	City Council Public Hearing – Second Reading of Ordinance is scheduled.
November 2014	County Co-Adoption, if applicable
December 2014	Expiration of thirty (30) day appeal period per Oregon Revised Statutes, only if County Co-Adoption occurs on schedule.
December 2014	Form 2 Notice to be mailed to DLCD for adopted changes and implementation.

3. ARTICLE 8.8 – LAND DEVELOPMENT CODE AMENDMENT

This request is subject to the Review Criteria provided in Land Development Code Ordinance 3210, Series 2013, Section 8.8.003; and, the Planning Commission and City Council Review Procedures.

SECTION 8.8.003 – REVIEW CRITERIA

A proposed Land Development Code Amendment shall meet the following criteria:

- A. That the proposed amendment is in compliance with the Statewide Planning Goals and with the Comprehensive Plan Policies.

Finding: See FINDINGS OF FACT Sections #5 and #6 below.

4. ARTICLE 9.6 – NOTICE OF HEARING

SECTION 9.6.001 – TIME AND METHOD OF PUBLIC NOTICE

A. Legislative Hearings

Notices of public hearings on legislative matters shall be given by the body conducting the hearing by publication in a newspaper of general circulation in the city of La Grande at least twenty (20) days but not

more than forty (40) days before the hearing. Notice shall be mailed to all property owners in the City if the proposal constitutes a “Measure 56 Rezoning.”

Finding: The proposed Land Development Code amendments governing MMJ Facilities is not subject to the Measure 56 notice rules in accordance with an interpretation provided by the Oregon Department of Land Conservation and Development (DLCD), see attached Exhibit C. The DLCD Representative explained that since the proposed Code amendments are expanding the uses allowed in affected zones and not proposing a new restriction, that the Measure 56 notice requirements do not apply.

(Note: A Measure 56 Notice requires that each property owner within the City of La Grande and Urban Growth Boundary be provided with a mailed notice of the proposed Code Amendments, with specific language added that stating how the proposed new restrictions could adversely affect their property.)

As a result of this interpretation from DLCD, public hearing notices will be limited to advertised notice and media announcements, as reflected in the *Schedule of Events* listed beginning on Page 2 of this Report. In addition to the advertised notice, mailed notice will be provided only to parties that participated in the prior MMJ Facilities discussions that lead up to this proposal and to parties that participate in the public hearing process.

5. **OREGON STATEWIDE PLANNING GOALS**

The following Findings of Fact are based on materials provided on the Oregon DLCD website, specifically the “Oregon Statewide Planning Goals Guidelines,” published by Oregon DLCD on March 12, 2010. The City Planner’s review of the Statewide Planning Goals resulted in finding that only Goals 1 and 2 apply. The other Statewide Planning Goals were regarding issues there were considerably unrelated to the proposed Land Development Code amendment; or, were specific to developing a greater plan, such as a public facilities plan, economic development plan, parks plan, etc.

GOAL 1: CITIZEN INVOLVEMENT

“To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.”

- A. Citizen Involvement** – The element of Goal 1 discusses the creation of a Committee for Citizen Involvement (CCI) and how the committee is developed.

Finding: This element does not apply to this request as a CCI is not being created and the City’s citizen involvement program is not being redefined or otherwise changed.

- B. Communication** – This element of Goal 1 discusses methods of communicating as part of a citizen involvement program. Recommended methods include newsletters, mailings, posters, questionnaires and other media.

Finding: The City of La Grande uses a combination of these methods. For the proposed development of rules governing MMJ Facilities, the process followed predominantly included mailings, media (radio) announcements and public notices published in the local newspaper. These methods are listed and discussed in the “Schedule of Events” section beginning on Page 2 of this Report.

- C. **Citizen Influence** – This element of Goal 1 discusses the start to finish process for developing plan changes, adoption, implementation and the future follow up with evaluations and revisions.

Finding: The proposed rules governing MMJ Facilities is completely new for the City of La Grande. As a result, only the first 4 items of this Goal 1 element are applicable. The last 2 items will likely occur at a future date after the rules have been implemented for a period of time.

- (1) **Data Collection** – Planning Division Staff researched rules governing MMJ Facilities, collecting samples of regulations adopted by the City of Lakewood, CO; Town of Dennis, CO; Klamath Falls, OR; and, Albany, OR. This information was presented to the public during a public meeting held on June 2, 2014, in an outline format as potential proposed rules for consideration. The attendees of the meeting were asked to identify rules they thought should be removed from the list, added to the list, or to discuss areas of interest where rules could be developed.
- (2) **Plan Preparation** – The Plan Preparation occurred predominantly as part of the June 2, 2014, public meeting. Discussion and recommendations were documented on flip charts and later transferred to a meeting summary sheet (see attached Exhibit B); then, drafted as a proposed Land Development Code Amendment (see attached Exhibit A).
- (3) **Adoption Process** – The proposed rules are now within this stage of the process. The first public hearing is scheduled with the Planning Commission on August 12, 2014, where the public will have the opportunity to comment and recommend changes to the proposed rules. The second public hearing is scheduled with the City Council on September 10, 2014, where the public will have another opportunity to comment and recommend changes. The City Council will hold the third public hearing on October 1, 2014, to consider the second reading and adoption of the proposed governing Ordinance.
- (4) **Implementation** – Depending on whether proposed MMJ Facilities are listed in the Land Development Code as a permitted or conditional use, the public may or may not have an opportunity to review and comment on each application proposal. When an a land use application involves public notice, the public will have an opportunity to comment and make recommendations that may influence the decision.
- (5) **Evaluation** – This process step may come at a later date. The City of La Grande generally updates or amends the Land Development Code Ordinance every 2-3 years. After the proposed MMJ rules have been adopted and implemented for a period of time, they may be evaluated and amended as needed during a subsequent Code amendment process.
- (6) **Revision** – As in #5, the City of La Grande generally updates or amends the Land Development Code Ordinance every 2-3 years. The process for revisions typically includes a Measure 56 notice, public meetings and multiple public hearings where citizen can participate and influence the rule making or amendment process.

- D. **Technical Information – To assure that technical information is available in an understandable form.** This element of Goal 1 relates to technical information provided by agencies that evaluate or implement public projects (e.g. roads, sewer, water, transportation, subdivisions, and zone changes.)

Finding: The proposed rules governing MMJ Facilities does not relate to the “technical information” described in this Goal 1 element. However, the Planning Division has prepared a

City map illustrating the implementation of the proposed rules, specifically the 1000 foot buffer areas around identified properties (schools, parks, libraries, etc.), see Exhibit D.

- E. Feedback Mechanism – To assure that citizens will receive a response from policy-makers.** This element of Goal 1 discusses how citizen involvement process will be set up to ensure that citizens will receive a response from the City, following the citizen involvement process, and measure the attitudes (support or opposition).

Finding: As this proposal does not design or establish a citizen involvement program, this Goal 1 element does not apply. However, to some degree a feedback mechanism is applicable and does occur. At the conclusion of the land use process when a decision is issued, citizens that participated in the process receive a notice in the mail advising them of the decision and their rights to challenge the decision, if desired.

- F. Financial Support – To insure funding for citizen involvement program.** This element of Goal 1 discussed budget issues.

Finding: The adopted budget for the Planning Division includes sufficient funding each year to provide the required public notices, media announcements, etc. for the implementation of the citizen involvement process.

GOAL 2: LAND USE PLANNING

“To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

- E. Major Revisions and Minor Changes in the Plan and Implementing Measures.** The citizens in the area and any affected governmental unit should be given an opportunity to review and comment prior to any changes in the plan and implementation ordinances. There should be at least 30 days notice of the public hearing on the proposed change.

Finding: As discussed in the Goal 1 Findings, the proposed rules governing MMJ Facilities includes multiple opportunities for citizens to participate in the process. See the “Schedule of Events” section beginning on Page 2 of this Report.

- F. Implementing Measures.** Changes to the Land Development Code are required to conform to the Comprehensive Plan and are to conform to State and Federal regulations affecting land use.

Finding: Conformance with the City of La Grande Comprehensive Plan is discussed in Section 5 of this Staff Report. The proposed rules governing MMJ Facilities is driven by recently adopted State law, Senate Bill 1531, which authorizes Cities to establish rules governing time, place and manner. The City of La Grande does not have any rules defining what an MMJ Facility is or any land use standards to ensure compatibility with surrounding land uses. As a result, the City has an identified need to resolve a deficiency in the Land Development Code Ordinance.

6. CITY OF LA GRANDE COMPREHENSIVE PLAN

The following Findings of Fact are based on applicable Goals and Policies within the City of La Grande Comprehensive Plan, Ordinance 3208, Series 2013.

GOAL 1: CITIZEN INVOLVEMENT

Policy 1: The City of La Grande shall strive to provide for widespread citizen involvement, especially in its land use planning process.

Finding: As outlined in the *Schedule of Events* section beginning on Page 2 of this report, the citizen involvement process began on April 28, 2014, during the Regular Session of the City Council with the Council’s consideration to impose a moratorium on new MMJ Facilities. Subsequent to the City Council meeting, Planning Division Staff sent public notices/invitations to interested citizens to attend a public meeting or workshop on June 2, 2014, that focused on developing rules that govern location/siting and operations of MMJ Facilities. In addition to mailed notice, public service announcements were broadcast on local radio stations (Caps Broadcast Group) and published in the local newspaper (The Observer).

The public meeting was attended by approximately 20 citizens that included MMJ dispensary owners, other business owners, MMJ advocates, citizens with concerns, and 2 members of the media. The public meeting was designed for citizens to help develop proposed rules that govern MMJ Facilities, share ideas, express concerns, and learn about the MMJ industry.

The proposed rules provided in Exhibit A reflect the consensus of the citizens present at the June 2nd meeting and the Planning Commission’s recommendation on August 13, 2014. Citizens that participated in the prior City Council meetings and public meeting will be mailed public notice for the Planning Commission and City Council meetings. Other public notice will be provided via the media. Citizens will have the opportunity to participate in at least 2 public meetings and influence proposed rules governing MMJ Facilities.

Policy 2: The City of La Grande shall strive to assure effective two-way communication with citizens.

Finding: The Planning Division successfully maintains 2-way communication with interested citizens by consistently maintaining open office hours, Monday thru Friday, 8:00-5:00. Citizens may also contact the Planning Division by phone or email and are encouraged to do so. All public documents are available for viewing and copies are provided upon request. For convenience, staff frequently scans and emails documents to citizens.

Policy 3: The City of La Grande shall strive to provide the opportunity for citizens to be involved in all phases of the planning process.

Policy 4: The City of La Grande shall strive to assure that technical information is available in an understandable form.

Policy 12: That the City of La Grande continue to provide all citizens who participate in the land use process with a copy of the final decision and findings.

Finding: As discussed above, citizens are provided with multiple notices and opportunities to participate in the land use process. The Planning Division staff strives to prepare materials and provide

them in layman’s terms so that they are easily understandable. Immediately following the “final” decision and adoption of the Findings of Fact, a copy of the final decision will be mailed to all participating parties.

GOAL 2: LAND USE PLANNING

Policy 3: That public need be established before plan changes or related requests are approved and that the burden of proof be borne by the requestor.

Finding: The City of La Grande Land Development Code Ordinance does not include any land use classifications, definitions, terminology or other references relating to MMJ Facilities or the MMJ industry. As a result, the proposed Land Development Code Amendment is based on a need identified by the City of La Grande City Council, pursuant to Senate Bill 1531 authorizing local governments to establish regulations governing MMJ Facilities.

7. CITY PLANNER COMMENTS

The *Meeting Summary for Proposed Rules Governing Medical Marijuana Facilities (Meeting – June 2, 2014)*, see Exhibit B, includes additional discussions and recommendations that are not included in the proposed Article 3.21, see Exhibit A.

Some participants at the June 2, 2014, meeting requested regulations governing operating hours, signage and other aesthetic requirements. Most of these elements were not included in the proposed Article 3.21, but should not be overlooked. As the proposed regulation requires a Conditional Use Permit, which is subject to a public hearing and a decision by the Planning Commission, staff’s recommendation is that these elements could be considered on a case-by-case bases as part of a proposed Conditional Use Permit and added as conditions of approval if deemed appropriate.

The Planning Commission has recommended that a new subsection B be added to proposed Section 2.21.004, that establishes a limitation on operating hours from 8:00 a.m. to 10:00 p.m.; and, that such operating hours may be reduced or expanded by the Planning Commission as a condition of approval to a required Conditional Use Permit. Such change in operating hours would be based on compatibility issues with uses in the area and consistency with the operating hours of nearby businesses.

8. PUBLIC AND AGENCY COMMENTS

None, as of the preparation of this Staff Report.

CONCLUSIONS

1. The proposed amendments comply with the Review Criteria in the City of La Grande Land Development Code Ordinance 3210, Series 2013, Article 8.8, Section 8.8.003.
2. The proposed amendments comply with the applicable Goals and Policies in City of La Grande Comprehensive Plan Ordinance 3208, Series 2013.
3. The proposed amendments comply with the applicable Oregon Statewide Planning Goals.

*Land Development Code Amendment – Article 3.21 MMJ Facilities
File Numbers 01-ZON-14
City Council Staff Report
October 1, 2014
Page (11)*

LIST OF EXHIBITS

- A. Article 3.21 – Medical Marijuana Facilities (Proposed New Regulation)
- B. Meeting Summary for Proposed Rules Governing Medical Marijuana Facilities (Meeting – June 2, 2014)
- C. Email Correspondence from Grant Young, DLCD Northeast Regional Representative
- D. Map – 1000 Foot Buffer Areas from Schools, Daycare Centers, Public Library, Parks and Youth Rec. Facilities.

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**PROPOSED AMENDMENT
TO LAND DEVELOPMENT CODE ORDINANCE 3210, SERIES 2013
ARTICLE 3.21 – MEDICAL MARIJUANA FACILITIES**

SECTION 3.21.001 - PURPOSE

This Article establishes regulations for the siting of medical marijuana (MMJ) facilities as authorized by ORS 475.300. The purpose of this Article is to minimize adverse impacts on adjacent properties, schools and other places where children congregate, and other land uses potentially incompatible with such facilities.

SECTION 3.21.002 – GENERAL PROVISIONS

MMJ Facilities may be allowed, subject to a Conditional Use Permit pursuant to Article 8.5 of this Code in the Central Business Zone (CB), General Commercial Zone (GC) and Light Industrial Zone (I-1). No MMJ facility may be located within the City unless the review authority finds that it satisfies all the requirements of this Code and State law.

MMJ facilities legally established pursuant to this Code shall not be found in conflict with the provision of this Code in the event that a conflicting land use locates in the vicinity of a MMJ facility subsequent to the MMJ facility obtaining land use approval from the City. When such conflict is found to exist, the MMJ facility shall be considered a legal nonconforming use and subject to provision set for in Article 3.14 of this Code.

SECTION 3.21.003 – DEFINITIONS INCLUDED BY REFERENCE

For the purposes of this Article, the following definition shall be used.

CAREER SCHOOL – means any private proprietary professional, technical, business or other school instruction, organization or person that offers any instruction or training or preparing persons for any profession at a physical location attended primarily by minors.

MINOR – means an individual under the age of 18.

PRE-SCHOOL – means a school of instruction attended primarily by pre-kindergarten or age level equivalent (ages 2-5).

PRIMARY SCHOOL – (aka elementary school) means a learning institution containing one or any combination of grades kindergarten through 8th grade or age level equivalent.

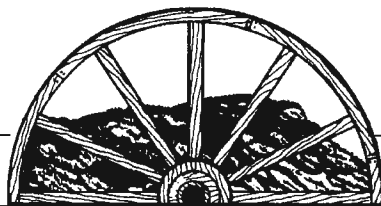
SECONDARY SCHOOL – means a learning institution containing one or any combination of grades 9 through 12 or age level equivalent and includes those institutions that provide junior high schools which include 9th grade.

SECTION 3.21.004 – STANDARDS FOR MMJ FACILITIES

A. **Location.** A MMJ facility shall not be located:

1. At the same address as a registered grow site.
2. Within 1,000 feet of the real property comprising a:
 - a) Public or private preschool, elementary, secondary or career school attended primarily by minors; or,
 - b) Public library; or,
 - c) Public park; or,
 - d) Community recreation facility attended primarily by minors; or
 - e) Participant sports and recreation facility attended primarily by minors; or,
 - f) Licensed daycare center.
3. Within 1,000 feet of another MMJ facility.

CITY OF



LA GRANDE

THE HUB OF NORTHEASTERN OREGON

COMMUNITY/ECONOMIC DEVELOPMENT DEPARTMENT / PLANNING DIVISION

P.O. Box 670 • 1000 Adams Avenue • La Grande, OR 97850

Phone: (541) 962-1307 • Fax: (541) 963-3333 • Email: lgplanning@cityoflagrande.org • Web: www.planning.cityoflagrande.org

June 5, 2014

RE: MEETING SUMMARY FOR PROPOSED RULES GOVERNING MEDICAL MARIJUANA FACILITIES
(Monday, June 2, 2014, 6:00 pm to 7:45 pm, City of La Grande Library – Community Room)

Dear Participant,

I'd like to thank you for taking the time Monday evening to meet with me to discuss and help develop proposed rules governing medical marijuana (MMJ) facilities in La Grande. I was impressed and very pleased by the courtesy and respect that everyone showed toward each other during the meeting, thank you. In addition to reaching a consensus on several items, the meeting was very informative and I left with a greater understanding of the MMJ industry and the concerns that the residents in our community have.

On the following pages, I have provided photographs of the flip chart sheets used during the meeting and a (Draft 2) of the Proposed Rules for MMJ Facilities that reflect the discussion items. Based on my observation and follow-up discussions with some people, I feel the group reached consensus on the proposed "definitions" and proposed "location" standards. For other items, there was either a lack of consensus or we were not able to arrive at a specific standard for consideration. As a result, I listed these items with a brief explanation and we may revisit them as we move forward.

As discussed during the meeting, my next step is to meet with the City Manager to determine the best course of action for proceeding. At a minimum, there will be 3 public meetings scheduled to consider and adopt the proposed rules. At least two of them will allow for public comment and discussion; one with the Planning Commission and one with the City Council. I will keep you informed of these opportunities as well as others that arise so that you may attend and participate, if desired.

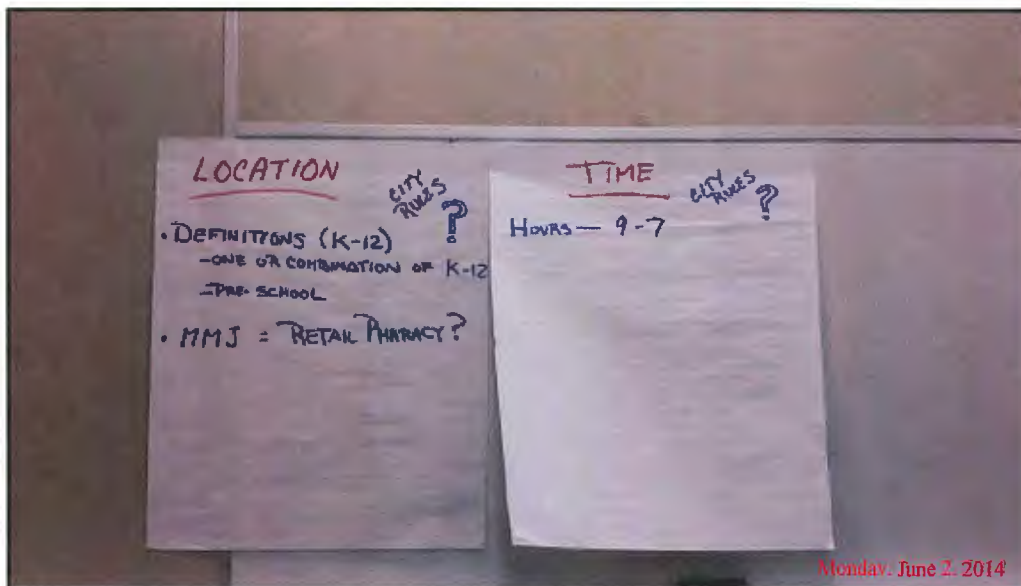
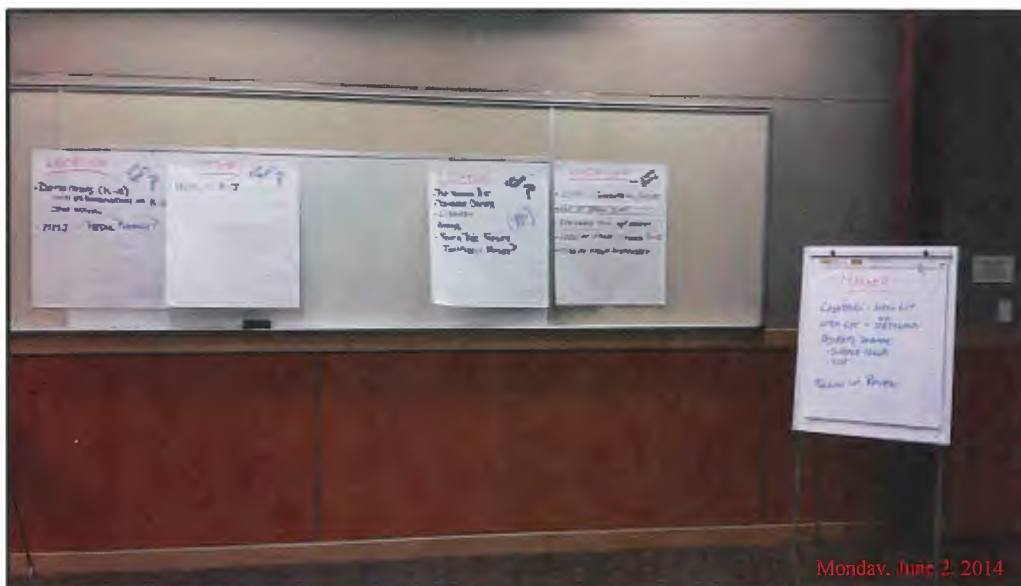
Again, thank you for attending and participating in this meeting. Please feel free to contact me by email to clarify any elements that you feel I may have misunderstood or to provide me with any additional concerns or recommendations that we may have overlooked during our meeting.

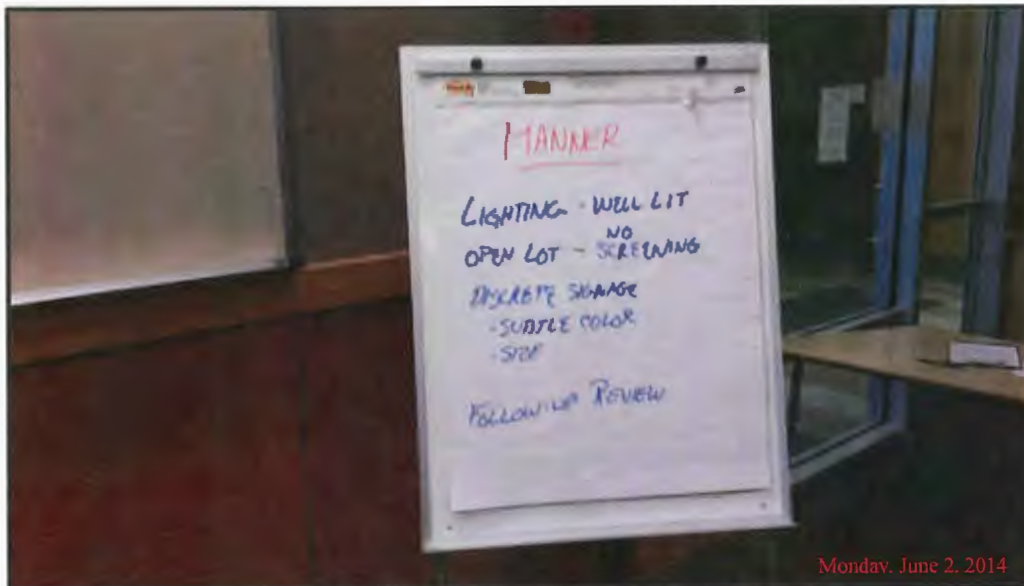
Sincerely,

Michael J. Boquist
City Planner

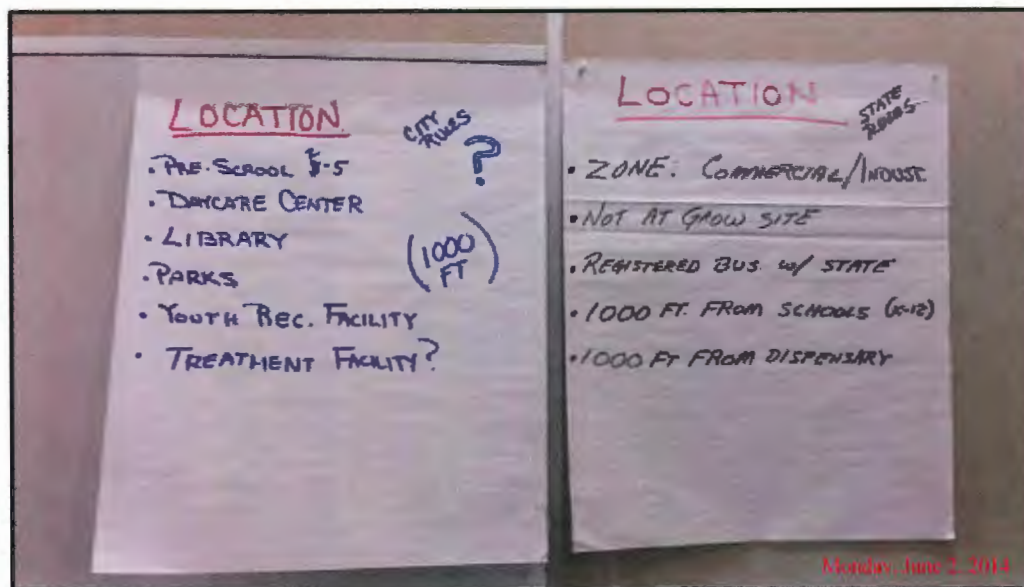
MJB/mjb

FLIP CHART NOTES





Monday, June 2, 2014



Monday, June 2, 2014

**(DRAFT 2) PROPOSED RULES FOR
MEDICAL MARIJUANA FACILITIES
(Based on Public Meeting Held on Monday, June 2, 2014)**

In response to the City Council's direction, the Planning Division hosted and facilitated a public meeting on Monday, June 2, 2014, to discuss and develop local rules for locating or siting medical marijuana facilities within the City of La Grande. **The following outline is a draft of proposed rules for consideration.**

- Text in "black" reflects existing State rules per HB 3460, SB 1531, OAR 333-008-1000+
- Text in "red" is proposed by City Staff to be removed and excluded from the local rules.
- Text in "blue" are standards and comments proposed by City Staff.
- Text in "purple" are standards proposed based on consensus reached or identifies a discussion point raised during the public meeting held on June 2, 2014.

DEFINITIONS:

"Career school" means any private proprietary professional, technical, business or other school instruction, organization or person that offers any instruction or training or preparing persons for any profession at a physical location attended primarily by minors.

"Medical marijuana facility" shall be defined under the same land use category as a commercial retail pharmacy.

(Note¹: Some individual requested that the land use review include public notice and an opportunity to comment on elements that may result in an adverse effect on nearby properties.)

*(Note²: One option is to identify this use as a **Conditional Use Permit** within the Commercial and/or Industrial zones.)*

"Minor" means an individual under the age of 18.

"Pre-school" means a school of instruction attended primarily by pre-Kindergarten or age level equivalent (ages 2-5).

"Primary school" (aka elementary school) means a learning institution containing **one or** any combination of grades Kindergarten through 8 or age level equivalent.

"Secondary school" means a learning institution containing **one or** any combination of grades 9 through 12 or age equivalent and includes those institutions that provide junior high schools which include 9th grade.

LOCATION (SITE SELECTION) OF MEDICAL MARIJUANA FACILITIES:

- Must be located in an area zoned for commercial, or industrial ~~or mixed-use~~ where retail pharmacies are permitted by the Land Development Code Ordinance;
- Not located at the same address as a marijuana grow site;
- Must be registered as a business or have filed a pending application to register as a business with the Office of the Secretary of State;
- Not located within 1,000 feet of a:
 - public or private preschool, primary, secondary or career school;
 - licensed daycare center (*Note: Does not include home daycare providers*)
 - public library
 - public park
 - recreation facility attended primarily by minors
 - drug interdiction treatment facility (*Note: Consensus was not reached on this item. Further research and discussion may be needed*)
- Not located within 1,000 feet of another registered dispensary.

MANNER (SITE CHARACTERISTICS) OF MEDICAL MARIJUANA FACILITIES:

(Note: Consensus was not reached. These are subjective design elements that require further research and discussion to develop clear and objective standard before consideration.)

- Lighting – the property needs to be well lit for safety purposes and to discourage undesirable activities.
- Open lot – the property needs to be open and all areas visible to minimize hidden areas where safety, security or undesirable activities may occur.
- Appearance – the building color, murals, and business signage needs to be professional, subtle in colors, limited in size, etc. to maintain a professional appearance consistent with other businesses in the area and not be an eyesore or detract from the quality or character of the surrounding area.

TIME (HOURS OF OPERATION) OF MEDICAL MARIJUANA FACILITIES:

(Note¹: A consensus was reached during the meeting by participants.)

- Business hours shall be limited to 9:00 a.m. to 7:00 p.m.

(Note²: After the meeting concerns were discussed about the fairness and equity of this requirement as no other businesses or land uses are regulated by hours of operation, other than bars. Also, City Staff have concerns about the ability to enforce this requirement.)

OTHER:

1. It was recommended that a committee be formed to consider this matter, develop standards and provide a recommendation to the Planning Commission and City Council. *(Note: While this is an option for consideration, it will result in a considerable delay in the process and be in conflict with the direction given by the City Council. The Council requested that this process be expedited and that standards be developed as quickly as possible.)*
2. It is desired that a follow up public meeting (or other forum to receive input) be held in 1 year to evaluate the proposed standards and to modify them as needed to address unforeseen issues.
- 3.

Michael Boquist

From: Young, Grant S <grant.s.young@state.or.us>
Sent: Tuesday, May 06, 2014 4:25 PM
To: Mike Boquist (mboquist@cityoflagrande.org)
Cc: Howard, Gordon
Subject: MMD's

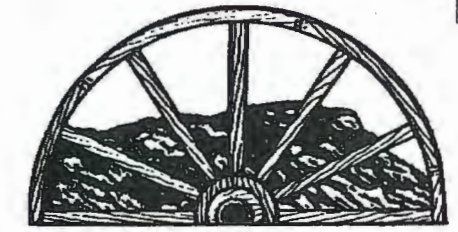
Mike; got a call from Gordon and you were unavailable so here's a synopsis of the discussion.

We agree that this is a land use proceeding and that it needs to be handled as such. We feel that the city would need to go through a formal PAPA for a code amendment.

We feel that since the use was formerly not allowed, and now is being allowed in specific areas that those areas are having an "expansion" of the uses allowed in the zone, and not a restriction; therefore, would not seem to require a Measure #56 Notice. I do have a question as to the effect on neighbors and their reaction to such a proposal, but think that's outside the Measure #56 scope.

Hope this helps.

Grant Young | Northeast Regional Representative
Community Services Division
Oregon Dept. of Land Conservation and Development
EOU Badgely Hall, Room 233A | La Grande, OR 97850
Office: (541) 962-3982 | Cell: (541) 325-6924
grant.s.young@state.or.us | www.oregon.gov/LCD



CITY of LA GRANDE
THE HUB OF NORTHEASTERN OREGON

MMJ 1000' BUFFER ZONING MAP



Legend

- Hillside Development (HD)
- Rural Residential (RR-1)
- Low Density Residential (R-1)
- Medium Density Residential (R-2)
- High Density Residential (R-3)
- Residential-Professional (R-P)
- Central Business (CB)
- General Commercial (GC)
- Interchange Commercial (IC)
- Light Industrial (I-1)
- Heavy Industrial (I-2)
- Business Park (BP)
- Public Facilities (PF)
- UGB
- City Limits
- MMJ 1000' Buffer

