



# Oregon

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

Date: 12/01/2014  
Jurisdiction: City of Toledo  
Local file no.: ZOA-3-14  
DLCD file no.: 003-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 11/25/2014. 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 49 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](mailto:plan.amendments@state.or.us)



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

**FOR DLCD USE**  
File No.: 003-14 {22481}  
Received: 11/25/2014

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 Toledo

Local file no.: **ZOA-3-14**

Date of adoption: 11/19/14

Date sent: 11/25/2014

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): 9/25/14

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): Arlene Inukai, Planning Assistant

Phone: 541-336-2247 x 2130

E-mail: [planning@cityoftoledo.org](mailto:planning@cityoftoledo.org)

Street address: 206 N Main Street

City: Toledo

Zip: 97391

## 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:

N/A

### 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:

Amend Toledo Municipal Code Sections 17.04.020 to add a definition for “Medical Marijuana Dispensary Facility”, Section 17.16.030 to include “Medical Marijuana Dispensary Facility” as a conditional use in the Commercial Zone, Section 17.20.030 to include “Medical Marijuana Dispensary Facility” as a conditional use in the Light-Industrial Zone, and Section 17.46.080 to prohibit “Medical Marijuana Facility Dispensary” as a home occupation in the residential zones.

**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):

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

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.

Staff Report showing criteria and findings.

**CITY OF TOLEDO**

**ORDINANCE NO. 1357**

**AN ORDINANCE AMENDING SECTIONS 17.04.020, 17.16.030, 17.20.030 AND 17.46.080 OF THE TOLEDO MUNICIPAL CODE RELATING TO THE REGULATION OF MEDICAL MARIJUANA DISPENSARIES; AND, DECLARING AN EMERGENCY.**

**WHEREAS**, pursuant to Toledo Municipal Code Chapter 1.01, the City Council, may from time to time make revisions to its municipal code which shall become part of the overall documentation and citation; and

**WHEREAS**, on November 12, 2014, the City of Toledo Planning Commission recommended approval of a code amendment to the Toledo Municipal Code Chapters 17.04, 17.16, 17.20 and 17.46 allowing Medical Marijuana Dispensary Facilities as a conditional use in the Commercial and Light Industrial Zones; and

**WHEREAS**, on November 19, 2014 the City of Toledo held a properly advertised public hearing; reviewed the Staff Report and findings; heard testimony and comments, and deliberated on approval of the Municipal Code Amendment;

**NOW THEREFORE, THE CITY OF TOLEDO ORDAINS AS FOLLOWS:**

**SECTION 1.**

The following definition is added to §17.04.020 of the Toledo Municipal Code to read as follows and shall be placed in alphabetical order with the existing definitions and terms:

**17.04.020 Definitions**

“Medical Marijuana Dispensary Facility” means a medical marijuana facility registered by the Oregon Health Authority under ORS 475.300 to ORS 475.346 and that sells, distributes, transmits, gives, dispenses or otherwise provides medical marijuana to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder.

**SECTION 2.**

Subsection (J) and (K) of Section § 17.16.030 of the Toledo Municipal Code are amended to read as follows:

**17.16.030 Conditional Uses Permitted**

- (J) Food production and/or beverage production, where the majority of the floor space will be devoted to providing personal services or goods to the public.
- (K) Medical marijuana dispensary facility.

**SECTION 3.**

Subsection (L) is added to Section §17.16.030 of the Toledo Municipal Code, to read as follows:

**17.16.030 Conditional Uses Permitted**

- (L) Uses which are similar to those permitted outright or conditionally in the C zone and which conform to the purpose of the zone.

**SECTION 4.**

Subsection (L) of Section §17.20.030 of the Toledo Municipal Code is amended to read as follows:

**17.20.030 Conditional Uses Permitted**

- (L) Medical marijuana dispensary facility.

**SECTION 5.**

Subsection (M) is added to Section §17.20.030 of the Toledo Municipal Code, to read as follows:

**17.20.030 Conditional Uses Permitted**

- (M) Uses which are similar in character, scale and performance to those permitted outright or conditionally in the L-I zone and which conform with the purpose of the zone.

**SECTION 6.**

Subsection (D) is added to Section §17.46.080 of the Toledo Municipal Code, to read as follows:

**17.46.080 Prohibited Home Occupation Uses.**

- D. Medical marijuana dispensary facilities, whether operating illegally without a business license or registered pursuant to ORS 475.314.

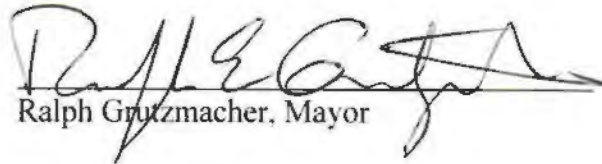
**SECTION 7.**

This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this Ordinance shall take effect upon its passage.

APPROVED AND ADOPTED by the City Council of the City of Toledo, Oregon on this 19<sup>th</sup> day of November, 2014:

APPROVED by the Mayor of the City of Toledo, Oregon, on this 19<sup>th</sup> day of November, 2014.

APPROVED

  
Ralph Grutzmacher, Mayor

ATTEST:

  
Nancy Bryant, City Recorder

**TOLEDO PLANNING COMMISSION AND CITY COUNCIL  
STAFF REPORT**

**FILE #:** ZOA-3-14

**APPLICANT:** City of Toledo

**APPLICATION DATE:** September 25, 2014

**HEARING DATE:** November 12 & 13, 2014 (PC) and November 19, 2014 (CC)

**REQUEST:** To amend Toledo Municipal Code Sections 17.04.020 to add a definition for “Medical Marijuana Dispensary Facility”, Section 17.16.030 to include “Medical Marijuana Dispensary Facility” as a conditional use in the Commercial Zone, Section 17.20.030 to include “Medical Marijuana Dispensary Facility” as a conditional use in the Light-Industrial Zone, and Section 17.46.080 to prohibit “Medical Marijuana Facility Dispensary” as a home occupation in the residential zones.

**I. REPORT OF FACTS:**

Notice of Public Hearing: Notices mailed on October 23, 2014, to 19 public/service agencies. Notice provided to DLCDC on September 25, 2014.

Notice Published in Newspaper: October 29, 2014, November 5, 2014, and November 12, 2014

Comments Received: Public Works Director, Fire Chief, and Police Chief all reviewed and approved the application. The Fire Chief added that a new use would require a fire inspection. No written comments were received by planning staff at the time of this writing.

Attachments to Staff Report: A. Draft Ordinance No. 1357  
B. Oregon Administrative Rules for Medical Marijuana Dispensary Program

**II. BACKGROUND**

The Planning Commission and City Council will be considering the evidence in this report and in public testimony as it reviews a proposal to amend the Toledo Municipal Code to allow Medical Marijuana Dispensary Facilities (MMDF) as a conditional use in the Commercial and Light-Industrial zoning districts.

The proposal includes the following definition to be included in TMC 17.04.020:

“Medical Marijuana Dispensary Facility” means a medical marijuana facility registered by the Oregon Health Authority under ORS 475.300 to ORS 475.346 and that sells, distributes, transmits, gives, dispenses or otherwise provides medical marijuana to a registry

identification cardholder or the designated primary caregiver of a registry identification cardholder.

The following is a list of the 'conditional uses' currently permitted in the Commercial Zone:

- A. Animal hospitals or kennels.
- B. Drive-in use for uses which are permitted outright or as conditional uses in the C zone.
- C. Restaurants (take-out or drive-in).
- D. Machine shops.
- E. Mini-storage.
- F. Multi-family dwelling units.
- G. Overnight trailer park or recreational vehicle parks.
- H. Pumping station or utility substations.
- I. Truck and car repair and service - major.
- J. Uses which are similar to those permitted outright or conditionally in the C zone and which conform to the purpose of the zone.
- K. Food production and/or beverage production, where the majority of the floor space will be devoted to providing personal services or goods to the public.

The following is a list of the 'conditional uses' currently permitted in the Light-Industrial Zone:

- A. A use permitted outright in the L-I zone, in which the building or buildings provided for the use exceed 40,000 square feet of floor area.
- B. Bulk storage of flammable liquids and gases.
- C. Eating or drinking establishments, including take-out or drive-in services.
- D. Industrial museum.
- E. Processing and manufacturing operations, excluding the following:
  - 1. Asphalt mixing and batching.
  - 2. Explosives manufacturing.
  - 3. Petroleum or petroleum products refining.
  - 4. Fertilizer manufacture.
  - 5. Gas manufacture.
  - 6. Slaughterhouse or rendering facility.
- F. Shipping facilities.
- G. Shoreline stabilization as defined in the Lincoln County Estuary Management Plan.
- H. Truck and car repair and service - major.
- I. Waste transfer, recycling facility, or scrap metal facility.
- J. Drive-in use for uses which are permitted outright or as conditional uses in the L-I zone
- K. Concrete mixing and batching, but excluding asphalt mixing and batching.
- L. Uses which are similar in character, scale and performance to those permitted outright or conditionally in the L-I zone and which conform with the purpose of the zone.

The proposed ordinance also lists MMDF as a prohibited home occupation use in the residential zones.

17.46.080 Prohibited Home Occupation Uses.

- A. Any activity that produces radio or TV interference, noise, glare, vibration, smoke, or odor beyond allowable levels as determined by local, state, or federal standards, or that can be detected beyond the property line is prohibited.
- B. Any activity involving on-site retail sales is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowable. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from arts or craft instructors,



computer software from computer consultants, and similar incidental items for sale by home businesses are allowed.

C. Any uses described in this section or uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke, or vibration, such as, but not limited to:

1. Ambulance service;
2. Animal hospital, on-site veterinary services, kennels, or animal boarding;
3. Auto or other vehicle repair, including auto painting;
4. Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes, or large equipment on-site;

### Conditional Use Standards

A use is designated as a 'conditional use' within a given zone when it is judged to be generally in line with the purpose of the zone but which could, if not reviewed, have a negative impact on other properties or uses within the zone. The purpose of such a review is to assure adequate site design and compatibility with surrounding uses and property. A review of a conditional use is a Type III review.

The standards governing conditional uses are contained in TMC 17.64.040 and listed below:

In addition to the standards of the zone in which the conditional use is located and the other standards of this chapter, conditional uses shall meet the following standards:

- A. In addition to other applicable standards of this section, all conditional uses shall comply with the following requirements:
  1. The site under consideration is suitable for the proposed use considering:
    - a. The size, design and operating characteristics of the use.
    - b. The adequacy of transportation access to the site.
    - c. The natural and physical features of the site such as general topography, natural hazards, natural resource values, and other features.
  2. The proposed use is compatible with existing and projected uses on surrounding lands, considering the factors in paragraph (1) of this subsection.

...

**III. AUTHORITY:** The following ordinance standards related to the approval process and authority apply to this request.

#### 17.80.030 Legislative amendments.

Legislative amendments are policy decisions such as the amendment to a comprehensive land use map or the municipal code made by the city council. They are reviewed using the Type IV land use procedure as set forth by ordinance.

#### 19.20.080 Approval process and authority.

- A. The planning commission shall:
  1. After notice and a public hearing, vote on and prepare a recommendation to the city council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and
  2. Within ten (10) business days of determining a recommendation, the presiding officer shall sign the written recommendation, and it shall be filed with the city manager.
- B. Any member of the planning commission who votes in opposition to the planning commission's majority recommendation may file a written statement of opposition with

the city manager before the council public hearing on the proposal. The city manager shall send a copy to each council member and place a copy in the record;

- C. If the planning commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal, within ten (10) days of its first public hearing on the proposed change, the city manager shall:
  - 1. Report the failure together with the proposed change to the city council; and
  - 2. Provide notice and put the matter on the city council's agenda, a public hearing to be held, and a decision to be made by the council. No further action shall be taken by the commission.
- D. The city council shall:
  - 1. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the planning commission for rehearing and reconsideration on all or part of the application;
  - 2. Consider the recommendation of the planning commission; however, it is not bound by the commission's recommendation; and
  - 3. Act by ordinance, which shall be signed by the mayor after the council's adoption of the ordinance.

19.20.090 Vote required for a legislative change.

- A. A vote by a majority of the qualified voting members of the planning commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.
- B. A vote by a majority of the qualified members of the city council present is required to decide any motion made on the proposal.

19.20.100 Notice of decision.

Notice of a Type IV decision shall be mailed to the applicant, any participants of record, and the Department of Land Conservation and Development, within five business days after the city council decision is filed with the city manager. The city shall also provide notice to all persons as required by other applicable laws.

19.20.110 Final decision and effective date.

- A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance or as specified in the city charter, or if not approved, upon mailing of the notice of decision to the applicant.

**IV. RELEVANT CRITERIA AND STAFF FINDINGS:**

TMC 19.20.070(A)-(D) contain the decision-making standards that are relevant to legislative amendments. The recommendation by the Planning Commission and the decision by the City Council shall be based upon the following criteria:

**Criterion 1. Consideration of the Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197 (for comprehensive plan amendments only);**

Finding 1

Criterion #1 is not applicable to this proposal because this proposal does not amend

the comprehensive plan.

**Criterion 2. Consideration of comments from any applicable federal or state agencies regarding applicable statutes or regulations.**

Finding 2

At the time of this writing (November 5, 2014), no comments have been received from any federal or state agencies concerning the proposed ordinance amendment.

**Criterion 3. Consideration of any applicable intergovernmental agreements.**

Finding 3

As required by Section 4(B) of the Urban Growth Management Agreement between the City of Toledo and Lincoln County, executed on June 6, 2001, the City notified Lincoln County in writing of this proposal.

**Criterion 4. Any applicable comprehensive plan policies and provisions of the municipal code that implement the comprehensive plan. Compliance with Toledo Municipal Code 17.80 shall be required for legislative amendments such as Comprehensive Plan Amendments and for quasi-judicial amendments.**

The following Comprehensive goals and objectives are applicable to this proposal:

ARTICLE 2: LAND USE PLANNING

Goal 1. Implement locally desired land use policies and practices that do not conflict with the State of Oregon's land use planning program.

Finding 4

The proposal to permit "Medical Marijuana Dispensary Facility" (MMDF) as a conditional use in a Commercial and Light-Industrial zone will not conflict with the State of Oregon's land use planning program and will implement a locally desired land use policy.

Goal 3. Assure an adequate factual basis for all decisions and actions related to the use of land as established and required by the State of Oregon's land use planning program.

Finding 5

The findings of fact included in this staff report outline the factual basis for action by the City to amend TMC 17.04.020, 17.16.030, 17.20.030, and 17.46.080.

Objectives:

Implementation of the Toledo Comprehensive Land Use Plan shall be through a) management implementation measures such as ordinances, regulations or project plans, and b) site or area specific implementation measures such as permits and grants for construction, construction of public facilities or provision of services related to the land use planning goals and objectives identified within the Toledo Comprehensive Land Use Plan.

Finding 6

The proposal to add MMDFs as a conditional use in the Commercial and Light-Industrial Zones will ensure that impacted air, water and land resources by this use

are protected or enhanced as needed through the conditional use permit review process.

2. The Toledo Comprehensive Land Use Plan Map and the Toledo Zoning Map shall provide for sufficient lands for a 20 year supply of land within the Urban Growth Boundary to meet the projected population growth of 5,550 by the year 2020 as projected in the Toledo Buildable Lands Inventory. The 20 year supply of land shall be a sufficient supply of land to implement the following land use zones:

...

**Comprehensive Plan Map Designations:**

Comprehensive Plan Map designations are intended to guide development by designating appropriate areas for each particular type of development use. Additional uses within each designation may be allowed as either uses permitted outright or as conditional uses when the City determines that such uses are either consistent with the general use or can be reviewed for compatibility through the conditional use process. The map designations and the uses allowed in the designations should reflect the applicable goals and objectives of the Toledo Comprehensive Land Use Plan.

...

**Commercial** – This designation provides for a wide range of commercial activities including retail and service uses as well as other compatible uses commonly associated with commercial areas including allowing residential uses. This designation shall be implemented by the zoning map designation of Commercial. A Main Street Overlay District shall be implemented to recognize the unique attributes and development pattern of the existing Main Street area.

...

**Industrial** – This designation provides a wide variety of industrial and light-industrial uses and recognizes that some water-dependent uses such as boat building and repair are appropriate industrial uses within the industrial designation. The intent is to encourage industrial growth and provide for industrial development at appropriate locations in order to increase the level of employment, enhance the tax base, decrease service costs, and achieve a healthy diverse, and stable local economy. The Industrial plan designation is implemented by the zoning map designations of Industrial, Light-Industrial, and/or Water-Dependent.

...

**(B) Zoning Map Designations:**

...

**Commercial (C)** – The purpose of the C zone is to provide for retail and service commercial uses. It is also intended that these uses will supply personal services or goods to the average person and that a majority of the floor space will be devoted to that purpose. Compatible uses including public, civic, and institutional uses will also be allowed. Residential use above the commercial main floor or located so as not to prevent the main commercial use shall be allowed and encouraged especially in the Main Street District Area.

...

**Light Industrial (L-I)** - The purpose of the Light Industrial zone is to implement the Toledo Comprehensive Land Use Plan by providing areas to serve a variety of manufacturing and other industrial activities with limited external impacts and to serve as a transition area between commercial, public and residential uses and heavier industrial uses.

Uses permitted in the L-I zone are often involved in the secondary processing of materials into components, the assembly of components into finished products, transportation, communication and utilities, wholesaling and warehousing. The external impact from these uses is generally less than uses permitted in the Industrial zone, and transportation needs are often met by truck. Activities are generally located indoors, although there may be some outdoor storage, delivery, and loading. Offices and commercial uses are permitted on a limited basis, and only in conjunction with a permitted L-I use.

...

**Finding 7**

The proposal complies with purpose statements for the Commercial and Light-Industrial Zones.

ARTICLE 5: OPEN SPACES, SCENIC & HISTORICAL AREAS, AND NATURAL RESOURCES

Goal 1. Ensure the provision of open space and the protection of scenic and natural resources as required by state and federal law.

Goal 2. Recognize Toledo's historic resources and utilize and enhance those resources for Toledo residents and visitors.

Goal 3. Protect natural resources such as wetlands and riparian habitat areas as required by state and federal law to ensure their continued contributions as natural areas, open space, wildlife and vegetative habitat, flood protection, and storm water retention and conveyance areas.

Finding 8

The proposal to add MMDFs as a conditional use in the Commercial and Light-Industrial Zones will ensure that affected areas of natural, scenic and historical resources are protected as needed through the conditional use review process.

ARTICLE 6: AIR, WATER, AND LAND RESOURCES QUALITY

Goal 1. Ensure that existing and future land use activities meet or exceed federal, state, and local air quality standards.

Goal 2. Ensure that future land use activities enhance or, at minimum, maintain water quality.

Finding 9

The proposal to add MMDF as a conditional use in the Commercial and Light-Industrial Zones will ensure that impacts to air, water and land resources are mitigated, as needed, through the conditional use review process.

ARTICLE 7: NATURAL HAZARDS

Goal 1. Prevent loss of life and property damage by requiring appropriate safeguards for all development of properties within known natural hazard areas. Natural hazards include: floods, tsunamis, earthquakes, landslides and slope hazards, weak foundation soils, high groundwater, wind/windthrow/winter storms, and wildfires.

Finding 10

The proposal to add MMDF as a conditional use in the Commercial and Light-Industrial Zones will ensure that safeguards to prevent loss of life and property damage due to natural hazards are required through the conditional use permit process on a site by site basis.

ARTICLE 9: ECONOMIC DEVELOPMENT

Goal 1. Improve the economic position of all elements of Toledo's economic base by retaining and expanding the current businesses while recruiting new businesses into the community.

Finding 11

The proposal to add MMDF as a conditional use in the Commercial and Light-Industrial Zones zone will allow for the possible expansion of existing uses and the establishment of new uses within the Commercial and Light-Industrial Zones.

Goal 2. Ensure an adequate supply of appropriately zoned land to provide for the full range of economic development opportunities in Toledo including commercial, industrial, water dependent, office and institutional services development.

Goal 3. Diversify the economic base of the Toledo area and strengthen the role as the industrial center for Lincoln County.

...

Goal 5. Assure that regulatory requirements provide for high standards of public health, safety, environmental protection, and welfare but are structured to support economic development.

Goal 6. Provide opportunities to develop the full range of commercial, recreational, and professional services to meet the needs of Toledo's residents and others. Reduce the need for Toledo's residents to go to other communities for retail purchases and services.

Finding 12

The proposal to add MMDF as a conditional use in the Commercial and Light-Industrial Zones complies with Goal 2, 3, 5 and 6 in that it will expand the range of economic development opportunities that are possible while ensuring that standards for community livability and environmental health are retained.

ARTICLE 11: PUBLIC FACILITIES AND SERVICES

...

Goal 7. Meet Oregon and federal requirements for wastewater treatment and protection of the water quality of the Yaquina River and estuarine system.

Goal 8. Minimize the existing and future drainage problems within Toledo and the Urban Growth Boundary.

...

Goal 11. Ensure that all development can be provided with adequate police, fire, and EMS protection.

Finding 13

The proposal will implement Public Facilities and Services Goals 7, 8, and 11 by allowing site design plans for developments of MMDF in the Commercial and Light-Industrial Zones to be reviewed and conditioned under TMC 17.64.040, as needed, to ensure that service by police, fire and EMS is available, and that the proposed use will not negatively impact wastewater treatment, water quality, and site drainage.

ARTICLE 12: TRANSPORTATION

Objective 25. All development proposals, plan amendments, or zone changes will conform with the Toledo Transportation System Plan.

Finding 14

The proposal is consistent with the Transportation System Plan and each new MMDF use will be reviewed through the conditional use permit process on a site by site basis.

Objective 26. Consider impacts on existing or planned transportation facilities in all land use decisions.

...

Objective 29. Land uses authorized under Comprehensive Land Use Plan Map and Zoning Map amendments must be consistent with the identified function, capacity, and level of services of transportation facilities.

Finding 15

The proposal will implement Transportation Objective #25, #26, and #29 by allowing individual site design review through the conditional use permit process for future MMDF uses in the Commercial and Light-Industrial Zones and their impact on existing or planned transportation facilities under TMC 17.64.040.

ARTICLE 14: URBANIZATION AND LIVABILITY

Goal 2. Design and encourage land use patterns that: a) are compact. b) mix land uses to reduce transportation costs and create vitality. C) retain Toledo's detailed and human scale design features. d) can be effectively serviced. e) protect the environment. f) provide a proper balance between jobs and housing.

### Finding 16

The proposal will implement Urbanization Goal 2 by allowing site design plans for developments of MMDF uses in the Commercial and Light-Industrial Zones to be reviewed and conditioned to ensure that development is compact, consistent with surrounding development design, has adequate public services and access, and that significant natural features are protected or enhanced as needed.

Goal 3. Ensure that all new developments are reviewed expeditiously and thoroughly and result in compliance with the Comprehensive Plan goals and policies and Toledo's Municipal Code and standards.

### Finding 17

The proposal will require all new MMDFs to get a conditional use permit in advance. Conditional Use Permit applications that are complete are processed a timely manner that meet State and City requirements provided in TMC Chapters 17 and 19. TMC Chapters 17 and 19 have been acknowledged for being consistent with and implementing the Toledo Comprehensive Plan.

Objective 1. Encourage urban level development that is properly serviced with public facilities to locate within the city limits.

...

Objective 9. Continue to focus upon Toledo's central city design but allow for mixed-uses where neighborhood commercial and other facilities can be located, designed, and operated to be compatible with the surrounding residential uses.

Objective 10. Encourage community, project, site, and building designs that: a. Protect the natural amenities and characteristics of Toledo; b. Provide a varied, detailed, and human-scaled design; c. Maintain a functional pattern for neighborhood services; d. Improve the appearance of the community.

### Finding 18

The proposal will implement Urbanization Objectives 1, 9, and 10 by allowing for MMDFs in the Commercial and Light-Industrial Zones when they are found to be compatible with the surrounding area through the conditional use permit review, have access to adequate public services, and that are consistent with or improve the appearance or development pattern of a neighborhood.

Goal 12. Ensure that all new development addresses the following factors: a. General needs and service capabilities of the neighborhood and the community in relationship to the impact of the proposed development; b. Any special locational characteristics or concerns identified with the location of the site such as being within or adjacent to a wetland or in a floodplain; c. Consideration of the characteristics of the site itself such as slope, drainage patterns, and/or access to transportation facilities; d. Potential impacts of the development upon the surrounding area; e. Use and enjoyment of a subdivision or planned development by future occupants and users.

### Finding 19

The proposal will implement Urbanization Goal 12 by allowing site design plans for developments of MMDFs in the Commercial and Light-Industrial Zones to be reviewed and conditioned, if necessary, to ensure that the development is compact, consistent with surrounding development design, has adequate public services and access, and that significant natural features are protected or enhanced as needed.

Goal 13. Ensure that Toledo's land use planning process, policy framework, and regulatory processes are workable for and understandable by local officials, staff, and the public. Ensure that

the requirement of application and review are commensurate with the size and complexity of the development request and the site characteristics.

Goal 14. Encourage flexibility in design and mixed-uses but ensure that functional design and community benefit remain as the principal review criteria.

Finding 20

The proposal will implement Urbanization Goal 13 and 14 by requiring an individual development review for each MMDF in the Commercial and Light-Industrial Zone.

This will ensure that conditions imposed are commensurate with the size and complexity of the development being proposed and the degree of potential impact to neighboring properties.

**ARTICLE 16: ESTUARINE RESOURCES**

Goal 1. Recognize and protect the unique environmental, economic and social values of the Yaquina River Estuary and the associated wetlands.

Finding 21

The proposal to add MMDFs as a conditional use in the Commercial and Light-Industrial Zones will ensure that areas of affected estuarine resources and associated wetlands can be protected as needed through the conditional use permit review process.

**ARTICLE 17: COASTAL SHORELANDS**

Goal 1. Conserve, protect, restore and, where appropriate, develop coastal shorelands recognizing the valuable roles that coastal shorelands have in protecting coastal estuary ecosystems and in providing water access for water-dependent uses important to a marine industrial economy.

Goal 2. Manage the coastal shorelands in a manner compatible with the characteristics of the nearby coastal waters.

Goal 3. Reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands.

Finding 22

The proposal to add MMDF as a conditional use in the Commercial and Light-Industrial Zones will ensure that areas of affected coastal shorelands can be protected, as needed, through the conditional use permit review process.

**V. CONCLUSION AND STAFF RECOMMENDATION**

Based upon the above analysis of the relevant criteria and findings, staff recommends approval of proposed Ordinance 1357.

**VI. PROPOSED MOTION:**

**PLANNING COMMISSION:**

Based on the testimony received, the staff report, and the evidence and arguments before the Planning Commission at the public hearing on November 13, 2014, the Planning Commission finds that application file #ZOA-3-14 complies with the criteria identified in TMC 19.20.070(A)-(D) and recommends approval of the proposal by the City Council. The Planning Commission hereby adopts the staff report as findings, allowing for the correction of typographical and grammatical errors as needed.



**CITY COUNCIL:**

To approve the proposed amendment to the Toledo Municipal Code based on the testimony received, the findings within the staff report, and the evidence and arguments before the City Council at the public hearing on November 19, 2014. The City Council determines that the request by the City of Toledo (ZOA-3-14) to amend Sections §17.04.020, 17.16.030, 17.20.030, and 17.46.080 of the Toledo Municipal Code complies with the criteria identified in TMC 19.20.070(A)-(D) as stated in the findings contained in the Staff Report. The City Council hereby adopts the staff report as findings and the other evidence in the record as findings supporting its decision and approves application ZOA-3-14. In addition, the City Council adopts Ordinance No.1357, an ordinance amending Sections 17.04.020, 17.16.030, 17.20.030 and 17.46.080 of the Toledo Municipal Code relating to the regulation of medical marijuana dispensaries; and, declaring an emergency.

**CITY OF TOLEDO**

**ORDINANCE NO. 1357**

**AN ORDINANCE AMENDING SECTIONS 17.04.020, 17.16.030, 17.20.030 AND 17.46.080 OF THE TOLEDO MUNICIPAL CODE RELATING TO THE REGULATION OF MEDICAL MARIJUANA DISPENSARIES; AND, DECLARING AN EMERGENCY.**

**WHEREAS**, pursuant to Toledo Municipal Code Chapter 1.01, the City Council, may from time to time make revisions to its municipal code which shall become part of the overall documentation and citation; and

**WHEREAS**, on November 13, 2014, the City of Toledo Planning Commission recommended approval of a code amendment to the Toledo Municipal Code Chapters 17.04, 17.16, 17.20 and 17.46 allowing Medical Marijuana Dispensary Facilities as a conditional use in the Commercial and Light Industrial Zones; and

**WHEREAS**, on November 19, 2014 the City of Toledo held a properly advertised public hearing; reviewed the Staff Report and findings; heard testimony and comments, and deliberated on approval of the Municipal Code Amendment;

**NOW THEREFORE, THE CITY OF TOLEDO ORDAINS AS FOLLOWS:**

**SECTION 1.**

The following definition is added to §17.04.020 of the Toledo Municipal Code to read as follows and shall be placed in alphabetical order with the existing definitions and terms:

**17.04.020 Definitions**

“Medical Marijuana Dispensary Facility” means a medical marijuana facility registered by the Oregon Health Authority under ORS 475.300 to ORS 475.346 and that sells, distributes, transmits, gives, dispenses or otherwise provides medical marijuana to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder.

**SECTION 2.**

Subsection (J) and (K) of Section § 17.16.030 of the Toledo Municipal Code are amended to read as follows:

**17.16.030 Conditional Uses Permitted**

- (J) Food production and/or beverage production, where the majority of the floor space will be devoted to providing personal services or goods to the public.

- (K) Medical marijuana dispensary facility.

### **SECTION 3.**

Subsection (L) is added to Section §17.16.030 of the Toledo Municipal Code, to read as follows:

#### **17.16.030 Conditional Uses Permitted**

- (L) Uses which are similar to those permitted outright or conditionally in the C zone and which conform to the purpose of the zone.

### **SECTION 4.**

Subsection (L) of Section §17.20.030 of the Toledo Municipal Code is amended to read as follows:

#### **17.20.030 Conditional Uses Permitted**

- (L) Medical marijuana dispensary facility.

### **SECTION 5.**

Subsection (M) is added to Section §17.20.030 of the Toledo Municipal Code, to read as follows:

#### **17.20.030 Conditional Uses Permitted**

- (M) Uses which are similar in character, scale and performance to those permitted outright or conditionally in the L-I zone and which conform with the purpose of the zone.

### **SECTION 6.**

Subsection (D) is added to Section §17.46.080 of the Toledo Municipal Code, to read as follows:

#### **17.46.080 Prohibited Home Occupation Uses.**

- D. Medical marijuana dispensary facilities, whether operating illegally without a business license or registered pursuant to ORS 475.314.

**SECTION 7.**

This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this Ordinance shall take effect upon its passage.

APPROVED AND ADOPTED by the City Council of the City of Toledo, Oregon on this 19<sup>th</sup> day of November, 2014:

APPROVED by the Mayor of the City of Toledo, Oregon, on this 19<sup>th</sup> day of November, 2014.

APPROVED

\_\_\_\_\_  
Ralph Grutzmacher, Mayor

ATTEST:

\_\_\_\_\_  
Nancy Bryant, City Recorder

# Final Rules for the Medical Marijuana Dispensary Program with Proposed SB 1531 Rules

*July 31st, 2014*

These are the final rules governing medical marijuana dispensaries in Oregon. This version also incorporates the proposed rules based on SB 1531, Oregon Laws 2014, chapter 79, which are underlined and in red. A rules hearing for public comment on the proposed rules will be held August 18, 2014. Individuals intending to file an application to register a dispensary should use these rules as a guide. Visit [mmj.oregon.gov](http://mmj.oregon.gov) for more information.

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July 31, 2014

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

**DIVISION 8**

**MEDICAL MARIJUANA**

**Medical Marijuana Facilities**

**333-008-1000**

**Applicability**

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

**333-008-1010**

**Definitions**

For the purposes of OAR 333-008-1000 through 333-008-1290 the following definitions apply:

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



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

- (30) "Remuneration" means compensation resulting from the employer-employee relationship, including wages, salaries, incentive pay, sick pay, compensatory pay, bonuses, commissions, stand-by pay, and tips.
- (31) "Resident" means an individual who has a domicile within this state.
- (32) "Safe" means a metal receptacle with a locking mechanism capable of storing all usable marijuana at a registered facility that is rendered immobile by being securely anchored to a permanent structure of the building, or a "vault".
- (33) "Secondary school" means a learning institution containing any combination of grades 9 through 12 or age level equivalent and includes those institutions that provide junior high schools which include 9th grade.
- (34) "These rules" means OAR 333-008-1000 through 333-008-1400.
- (35) "Usable marijuana" has the meaning given that term is ORS 475.302 and includes "finished product".
- (36) "Valid testing methodology" means a scientifically valid testing methodology described in a published national or international reference and validated by the testing laboratory.
- (37) "Vault" means an enclosed area that is constructed of steel-reinforced or block concrete and has a door that contains a multiple-position combination lock or the equivalent, a relocking device or equivalent, and a steel plate with a thickness of at least one-half inch.
- Stat. Auth.: ORS 475.314, 475.338  
Stats. Implemented: ORS 475.314

### **333-008-1020**

#### **Application for Medical Marijuana Facility Registration**

- (1) Beginning on March 3, 2014, at 8:30 a.m. Pacific Standard Time (PST), the Authority shall begin accepting applications for the registration of a facility. An application may be submitted at any time on or after March 3, 2014, at 8:30 a.m., PST.
- (2) A PRF wishing to apply to register a facility must provide to the Authority:
- (a) An application on a form prescribed by the Authority;
  - (b) Any additional documentation required by the Authority in accordance with these rules;
  - (c) The applicable fee as specified in OAR 333-008-1030; and
  - (d) Information and fingerprints required for a criminal background check in accordance with OAR 333-008-1130.
- (3) An application for the registration of a facility must be submitted by a PRF electronically via the Authority's website, <http://mmj.oregon.gov>. The documentation required in subsection (2)(b) of this rule and the information and fingerprints described in subsection (2)(d) of this rule may be submitted electronically to the Authority or may be mailed but must be postmarked within five calendar days of the date the application was submitted electronically to the Authority or the application will be considered to be incomplete. Applicable fees must be paid online at the time of application.
- (4) The Authority must review each application received to ensure the application is complete, that the required documentation has been submitted, and the fee paid. The Authority shall return an incomplete application to the person that submitted the application. A person may re-submit an application that was returned as incomplete at any time.
- (5) Applications will be reviewed in the order they are received by the Authority. An application that is returned as incomplete must be treated by the Authority as if it was never received.

(6) A PRF who wishes to register more than one location must submit a separate application and application fee for each location.

(7) At the time of application the PRF will be asked, by the Authority, to sign an authorization permitting the Authority to publish the location of the facility if the facility is registered.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

### **333-008-1030**

#### **Fees**

(1) The initial fees for the registration of a facility are:

(a) A non-refundable application fee of \$500; and

(b) A \$3,500 registration fee.

(2) The annual renewal fees for the registration of a facility are:

(a) A \$500 non-refundable renewal fee; and

(b) A \$3,500 registration fee.

(3) The Authority must return the registration fee if:

(a) An application is returned to the applicant as incomplete;

(b) The Authority denies an application; or

(c) An applicant withdraws an application.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1040**

#### **Application Review**

(1) Once the Authority has determined that an application is complete it must review the application to determine compliance with ORS 475.314 and these rules.

(2) The Authority may, in its discretion, prior to acting on an application:

(a) Contact the applicant and request additional documentation or information; and

(b) Inspect the premises of the proposed facility.

(3) Prior to making a decision whether to approve or deny an application the Authority must:

(a) Ensure that the criminal background check process has been completed and review the results;

(b) Contact the OMMP and obtain documentation of whether the location of the facility is the same location as a registered grow site under OAR 333-008-0025;

(c) Review available records and information to determine whether the proposed facility is located within 1,000 feet of the real property comprising a public or private elementary, secondary or career school; and

(d) Review the list of registered facilities to determine whether any registered facilities are within 1,000 feet of the proposed facility.

(4) If during the review process the Authority determines that the application or supporting documentation contains intentionally false or misleading information the Authority must return the application to the applicant as incomplete.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

**333-008-1050**

**Approval of Application**

- (1) If the proposed facility appears to be in compliance with ORS 475.314 and these rules, and the PRF has passed the criminal background check and is determined to reside in Oregon, the Authority must notify the applicant in writing that the application has been approved, that the facility is registered, and provide the applicant with proof of registration that includes a unique registration number.
- (2) A facility that has been registered must display proof of registration in a prominent place inside the facility so that proof of registration is easily visible to individuals authorized to transfer usable marijuana and immature plants to the facility and individuals who are authorized to receive a transfer of usable marijuana and immature plants from the facility at all times when usable marijuana or immature plants are being transferred.
- (3) A registered facility may not post any signs at the facility that use the Authority or the OMMP name or logo except to the extent that information is contained on the proof of registration.
- (4) A facility's registration is only valid for the location indicated on the proof of registration and is only issued to the PRF that is listed on the application or subsequently approved by the Authority.
- (5) A facility's registration may not be transferred to another location.
- (6) If a proposed facility appears to be in compliance with ORS 475.314 and these rules except that the proposed facility does not yet have a security system installed and other security requirements in place, the Authority may issue a provisional registration that is valid for 60 days.
  - (a) In order to receive provisional registration a PRF must submit to the Authority at the time of application a floor plan of the facility that has marked and labeled all points of entry to the facility, all secure areas required by these rules and the proposed placement of all video cameras.
  - (b) The provisionally registered facility may not receive transfers of usable marijuana or immature plants or transfer usable marijuana or immature plants until the security system and other security requirements are in place and the Authority has approved the provisionally registered facility to begin operating.
  - (c) When the security system and other security requirements are in place the PRF must notify the Authority and if the Authority determines that the provisionally registered facility is in full compliance with these rules, the Authority must approve the facility for operation.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

**333-008-1060**

**Denial of Application**

- (1) The Authority must deny an application if:
  - (a) An applicant fails to provide sufficient documentation that the proposed facility meets the qualifications for a facility in these rules; or
  - (b) The PRF has been:
    - (A) Convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II within five years from the date the application was received by the Authority; or
    - (B) Convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II; or
    - (C) Prohibited by a court from participating in the OMMP.

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1070**

#### **Expiration and Renewal of Registration**

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

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

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

(b) The required renewal fees;

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1080**

#### **Notification of Changes**

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

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

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

(c) A decision to change the PRF;

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

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

(f) A change in the person's residency; and

(g) The location of an elementary, secondary or career school attended primarily by minors within 1,000 feet of the facility.

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

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

(b) A copy of the court order prohibiting the PRF from participating in the OMMP;

(c) The location of the school that has been identified as being within 1,000 feet of the facility; or

(d) The information required in OAR 333-008-1120 and 333-008-1130 to determine the residency of the new PRF and to perform the criminal background check.

(3) Failure of the PRF to notify the Authority in accordance with this rule may result in revocation of a facility's registration.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1090**

#### **Required Closures**

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

- (1) The PRF is convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II;
  - (2) The PRF changes and the Authority has not:
    - (a) Performed a criminal background check on the proposed PRF in accordance with OAR 333-008-1130;
    - (b) Determined whether the individual is a resident of Oregon; and
    - (c) Provided written approval that the new PRF meets the requirements of ORS 475.314.
  - (3) The PRF has been ordered by the court not to participate in the OMMP; or
  - (4) An elementary, secondary or career school attended primarily by minors is found to be within 1,000 of the registered facility.
- Stat. Auth.: ORS 475.314, 475.338  
Stats. Implemented: 475.314

### **333-008-1100**

#### **Business Qualifications for Medical Marijuana Facility Registration**

- (1) A facility must be registered as a business or at the time of applying to register a facility have filed a pending application to register as a business with the Office of the Secretary of State.
  - (2) The Authority may not approve an application until it has verified that the facility is registered as a business with the Office of the Secretary of State.
- Stat. Auth.: ORS 475.314, 475.338  
Stats. Implemented: 475.314

### **333-008-1110**

#### **Locations of Medical Marijuana Facilities**

- (1) In order to be registered a facility must be located in an area that is zoned by the local governing agency for commercial, industrial or mixed use or as agricultural land.
- (2) Registration by the Authority is not a guarantee that a facility is permitted to operate under applicable land use or other local government laws where the facility is located.
- (3) A facility may not be located:
  - (a) At the same address as a registered marijuana grow site;
  - (b) Within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors; or
  - (c) Within 1,000 feet of another medical marijuana facility;
- (4) In order for the Authority to ensure compliance with this rule a PRF must submit with an initial application documentation that shows the current zoning for the location of the proposed facility.
- (5) For purposes of determining the distance between a facility and a school referenced in subsection (3)(b) of this rule, "within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in every direction from any point on the boundary line of the real property comprising an existing public or private elementary, secondary or career school primarily attended by minors.
- (6) For purposes of determining the distance between a facility and another registered facility "within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in every direction from any point on the boundary line of the real property comprising a registered facility.

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1120**

#### **Person Responsible for a Medical Marijuana Facility (PRF)**

(1) A PRF must:

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

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

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

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

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

(2) A PRF may not:

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

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

(3) At the time of application a PRF must submit to the Authority a copy of the information described in paragraphs (1)(a)(A) and (B) of this rule.

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

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

(a) The PRF may no longer serve in that capacity;

(b) In order to remain certified, a change of PRF form must be submitted; and

(c) The facility may not operate until the Authority has approved a new PRF.

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1130**

#### **Criminal Background Checks**

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

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

(A) First, middle and last name;

(B) Any aliases;

- (C) Date of birth;
  - (D) Driver's license information; and
  - (E) Address and recent residency information.
  - (b) Fingerprints in accordance with the instructions on the Authority's webpage:  
<http://mmj.oregon.gov>.
  - (2) The Authority may request that the PRF disclose his or her Social Security Number if notice is provided that:
    - (a) Indicates the disclosure of the Social Security Number is voluntary; and
    - (b) That the Authority requests the Social Security Number solely for the purpose of positively identifying the PRF during the criminal records check process.
  - (3) The Authority shall conduct a criminal records check in order to determine whether the PRF has been convicted of the manufacture or delivery of a controlled substance in Schedule I or Schedule II in any state.
  - (4) The Authority must conduct a criminal background check in accordance with this rule on a PRF every year at the time of application renewal.
  - (5) If a PRF wishes to challenge the accuracy or completeness of information provided by the Department of State Police, the Federal Bureau of Investigation and agencies reporting information to the Department of State Police or Federal Bureau of Investigation, those challenges must be made through the Department of State Police, Federal Bureau of Investigation or reporting agency and not through the contested case process specified in OAR 333-008-1060(2).
- Stat. Auth.: ORS 475.314, 475.338  
Stats. Implemented: 475.314

### **333-008-1140**

#### **Security for Registered Facilities**

- (1) The PRF must ensure that a registered facility complies with OAR 333-008-1140 through 333-008-1180.
- (2) The PRF is responsible for the security of all usable marijuana and immature plants in the registered facility, including providing adequate safeguards against theft or diversion of usable marijuana and immature plants and records that are required to be kept.
- (3) The PRF must ensure that commercial grade, non-residential door locks are installed on every external door at a registered facility prior to opening for business and used while a facility is registered.
- (4) During all hours when the registered facility is open for business, the PRF must ensure that:
  - (a) All usable marijuana and immature plants received and all usable marijuana and immature plants available for transfer to a patient or a designated primary caregiver are kept in a locked, secure area that can only be accessed by authorized personnel.
  - (b) All areas where usable marijuana or immature plants are received for transfer by a registered facility are identified as a restricted access area by posting a sign not less than 12 inches wide and 12 inches long, composed of letters not less than one-half inch in height that reads, "Restricted Access Area – Authorized Personnel Only".
  - (c) All areas where usable marijuana or immature plants are available for transfer to a patient or designated primary caregiver are:



- (A) Identified as a restricted access area and clearly identified by the posting of a sign not less than 12 inches wide and 12 inches long, composed of letters not less than one-half inch in height that reads "Restricted Access Area – No Minors Allowed";
  - (B) Supervised by the PRF or an employee of the registered facility at all times when a patient or designated primary caregiver is present; and
  - (C) Separate from any area where usable marijuana or immature plants are being transferred to a registered facility.
- (5) During all hours when the registered facility is not open for business the PRF must ensure that:
- (a) All entrances to and exits from the facility are securely locked and any keys or key codes to the facility remain in the possession of the PRF or authorized employees;
  - (b) All usable marijuana is kept in a safe; and
  - (c) All immature plants are in a locked room.
- (6) The PRF must ensure that:
- (a) Electronic records are encrypted, and securely stored to prevent unauthorized access and to ensure confidentiality;
  - (b) There is an electronic back-up system for all electronic records; and
  - (c) All video recordings and archived required records not stored electronically are kept in a locked storage area. Current records may be kept in a locked cupboard or desk outside the locked storage area during hours when the registered facility is open.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1150**

#### **Alarm System for Registered Facilities**

- (1) Prior to opening for business, a PRF must ensure that a registered facility has a security alarm system, installed by an alarm installation company, on all facility entry or exit points and perimeter windows.
- (2) At the time of application a PRF must submit to the Authority documentation of the:
  - (a) Alarm system that is installed or proposed for installation;
  - (b) Company that installed the system or plans to install the system;
  - (c) Features of the system that meet the criteria of this rule.
- (3) A PRF must ensure that the facility is continuously monitored by the alarm system.
- (4) The security alarm system for the registered facility must:
  - (a) Be able to detect movement inside the registered facility;
  - (b) Be programmed to notify a security company that will notify the PRF or his or her designee in the event of a breach; and
  - (c) Have at least two "panic buttons" located inside the registered facility that are linked with the alarm system.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1160**

#### **Video Surveillance Equipment for Registered Facilities**

- (1) Prior to opening for business, a PRF must install a fully operational video surveillance recording system.

- (2) At the time of application a PRF must submit to the Authority documentation of the:
    - (a) Video surveillance system that is installed or proposed for installation;
    - (b) Company or person that installed the system or plans to install the system;
    - (c) Features of the system that meet the criteria of this rule.
  - (3) Video surveillance equipment must, at a minimum:
    - (a) Consist of:
      - (A) Digital or network video recorders;
      - (B) Cameras capable of meeting the requirements of OAR 333-008-1170 and this rule;
      - (C) Video monitors;
      - (D) Digital archiving devices; and
      - (E) A color printer capable of producing still photos.
    - (b) Be equipped with a failure notification system that provides prompt notification to the PRF or employees of any prolonged surveillance interruption or failure; and
    - (c) Have sufficient battery backup to support a minimum of one hour of recording time in the event of a power outage.
  - (4) All video surveillance equipment and recordings must be stored in a locked secure area that is accessible only to the PRF, authorized employees of the registered facility and the Authority.
- Stat. Auth.: ORS 475.314, 475.338  
Stats. Implemented: 475.314

### **333-008-1170**

#### **Required Camera Coverage and Camera Placement for Registered Facilities**

- (1) A PRF must ensure that a registered facility has camera coverage for:
    - (a) All secure and restricted access areas described in OAR 333-008-1140;
    - (b) All point of sale areas;
    - (c) All points of entry to or exit from secure and restricted access areas; and
    - (d) All points of entry to or exit from the registered facility.
  - (2) A PRF must ensure that camera placement is capable of identifying activity occurring within 15 feet of all points of entry to the registered facility and exit from the registered facility and shall allow for the clear and certain identification of any individual and activities on the facility premises.
- Stat. Auth.: ORS 475.314, 475.338  
Stats. Implemented: 475.314

### **333-008-1180**

#### **Video Recording Requirements for Registered Facilities**

- (1) The PRF must ensure that all camera views of all secure and restricted access areas and points of entry to or exit from the registered facility are continuously monitored by motion sensor video equipment or similar technology 24 hours a day.
- (2) A PRF must ensure that:
  - (a) All surveillance recordings are kept for a minimum of 30 days and are in a format that can be easily accessed for viewing;
  - (b) The surveillance system has the capability to produce a color still photograph from any camera image;
  - (c) The date and time is embedded on all surveillance recordings without significantly obscuring the picture;

(d) Video recordings are archived in a format that ensures authentication of the recording as a legitimately-captured video and guarantees that no alterations of the recorded image has taken place; and

(e) Video surveillance records and recordings are available upon request to the Authority for the purpose of ensuring compliance with ORS 475.314 and these rules.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### 333-008-1190

#### Testing

(1) A PRF must ensure that usable marijuana and immature plants are tested for pesticides, mold and mildew in accordance with this rule prior to the usable marijuana or immature plants being transferred to a patient or a designated primary caregiver.

(2) Upon usable marijuana being transferred to a registered facility in accordance with OAR 333-008-1230, the PRF must ensure the usable marijuana is segregated into batches, that each batch is placed in an individual container or bag, and that a label is attached to the container or bag that includes at least the following information:

(a) A unique identifier;

(b) The name of the person who transferred it; and

(c) The date the usable marijuana was received by the registered facility.

(3) Sampling. A PRF must ensure that random samples from each batch are taken in an amount necessary to conduct the applicable test, that the samples are labeled with the batch's unique identifier, and submitted for testing.

(4) Testing. A PRF must ensure that each sample is tested for pesticides, mold, and mildew and for an analysis of the levels of tetrahydrocannabinol (THC) and Cannabidiol (CBD).

(a) Immature Plants. An immature plant may be tested for pesticides, mold or mildew by conducting a macroscopic or microscopic screening to determine if the plant has visible pesticide residue, mold or mildew.

(b) Flowers or other usable marijuana plant material. Usable marijuana in the form of flowers or other plant material must be:

(A) Tested for pesticides, mold and mildew using valid testing methodologies and macroscopic or microscopic screening may not be used;

(B) Tested for pesticides by testing for the following analytes:

(i) Chlorinated Hydrocarbons;

(ii) Organophosphates;

(iii) Carbamates; and

(iv) Pyrethroids; and

(C) Analyzed, using valid testing methodologies, to determine the levels of THC and CBD.

(c) Edibles, Liquids and Solid Extracts. If the usable marijuana used in the edible, liquid or solid extract has been tested in accordance with this rule and tested negative for pesticides, mold or mildew, the edible, liquid or solid extract does not need to be tested for pesticides, mold and mildew but does need to be tested for an analysis of the levels of THC and CBD. If the usable marijuana used in the edible, liquid, or solid extract was not tested in accordance with this rule, the edible, liquid or solid extract must be tested for pesticides, mold or mildew in accordance with subsection (4)(b) of this rule.

(5) Laboratory Requirements. A PRF must ensure that all testing, except for testing of immature plants, is done by a third party or in-house laboratory that:

- (a) Uses valid testing methodologies; and
- (b) Has a Quality System for testing of pesticides, mold and mildew that is compliant with the:
  - (A) 2005 International Organization for Standardization 17025 Standard; or
  - (B) 2009 National Environmental Laboratory Accreditation Conference Institute TNI Standards.

(6) Macroscopic or microscopic screening of immature plants must be conducted by a person who has a minimum of a bachelor's degree in horticulture, botany, plant pathology, microbiology, or an equivalent degree but is not required to be done by a laboratory.

(7) Testing Results. A laboratory must provide testing results to the PRF signed by an official of the laboratory who can attest to the accuracy of the results, and that includes the levels of pesticides, mold or mildew detected and the levels of THC and CBD.

(a) If an immature plant has visible pesticide residue, mold or mildew it must be deemed to test positive and must be returned to the person who transferred the immature plant to the registered facility.

(b) A sample of usable marijuana shall be deemed to test positive for mold and mildew if the sample has levels that exceed the maximum acceptable counts in Appendix A.

(c) A sample of usable marijuana shall be deemed to test positive for pesticides with a detection of more than 0.1 parts per million of any pesticide.

(8) If an immature plant or sample of usable marijuana tests positive for pesticides, mold or mildew based on the standards in this rule the PRF must ensure the entire batch from which the sample was taken is returned to the person who transferred the immature plant or usable marijuana to the registered facility and must document how many or how much was returned, to whom, and the date it was returned.

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1200**

#### **Operation of Registered Facilities**

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

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

(b) Consumption, ingestion, inhalation or topical application of usable marijuana anywhere on the premises of the registered facility, except that an employee of a registered facility who is a patient may consume usable marijuana during their work shift as necessary for his or her medical condition, in a closed room, alone if the usable marijuana is being smoked, not visible to the public or to patients or caregivers on the premises of the registered facility to receive a transfer of usable marijuana or an immature plant.

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

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

- (a) A PRF;
- (b) An owner of a registered facility;
- (c) An employee of the registered facility;
- (d) Laboratory personnel in accordance with OAR 333-008-1190;
- (e) A contractor authorized by the PRF to be on the premises of a registered facility;
- (f) A patient, designated primary caregiver, or growers;
- (g) An authorized employee or authorized contractor of the Authority; and
- (h) Other government officials that have jurisdiction over some aspect of the registered facility or that otherwise have authority to be on the premises of the registered facility.

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

- (a) Security;
- (b) Testing;
- (c) Transfers of usable marijuana and plants to and from the facility;
- (d) Operation of a registered facility;
- (e) Required record keeping;
- (f) Labeling; and
- (g) Violations and enforcement.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1210**

#### **Record Keeping**

(1) A PRF must ensure that the following information is documented and maintained electronically in a manner that can easily be shared with the Authority or accessed by the Authority:

- (a) All Authorization to Transfer forms, including the date on which a form was received;
- (b) Any written notifications from a patient with regard to any change in status as required by ORS 475.309(7)(a)(B) or (10)(a);
- (c) Any revocation of an Authorization to Transfer form;
- (d) All transfer information required in OAR 333-008-1230 and 333-008-1240;
- (e) Documentation of the costs of doing normal and customary business used to establish the reimbursement amounts for transfers of usable marijuana or immature plants, including costs related to transferring, handling, securing, insuring, testing, packaging and processing usable marijuana and immature marijuana plants and the cost of supplies, utilities and rent or mortgage.
- (f) The amount of money paid by a registered facility to a grower for each transfer of usable marijuana or immature plants;
- (g) The amount of money paid by each patient or designated primary caregiver for a transfer of usable marijuana or an immature plant;
- (h) The laboratory reports of all testing and other information required to be documented in OAR 333-008-1190; and
- (i) All other information required to be documented and retained in these rules.

(2) The PRF must ensure that information required to be documented pursuant to section (1) of this rule is maintained in a safe and secure manner that protects the information from unauthorized access, theft, fire, or other destructive forces, and is easily retrievable for inspection by the Authority upon request, either at the registered facility or online.

(3) A PRF must ensure that a registered facility uses an electronic data management system for the recording of transfers of usable marijuana and immature plants. The system must meet the following minimum requirements:

- (a) Record the information required to be documented in this rule and OAR 333-008-1230 and 333-008-1240;
- (b) Provide for off-site or secondary backup system;
- (c) Assign a unique transaction number for each transfer to or from the registered facility;
- (d) Monitor date of testing and testing results;
- (e) Track products by unique transaction number through the transfer in, testing and transfer out processes;
- (f) Generate transaction and other reports requested by the Authority viewable in PDF format;
- (g) Produce reports, including but not limited to inventory reports; and
- (h) Provide security measures to ensure patient and grower records are kept confidential.

(4) Documents and information required to be maintained in these rules must be retained by the PRF for at least one year.

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1220**

#### **Labeling**

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

- (a) The amount of THC and CBD in the usable marijuana;
- (b) If pre-packaged, the weight or volume of the packaged usable marijuana in metric units;
- (c) The amount of usable marijuana in a finished product in metric units;
- (d) Potency information; and
- (e) Who performed the testing.

(2) If the registered facility transfers usable marijuana in a form that is edible, the PRF must ensure that the usable marijuana has a warning label on the outside of the packaging that includes the following: "WARNING: MEDICINAL PRODUCT – KEEP OUT OF REACH OF CHILDREN" in bold capital letters, in a font size that is larger than the type-size of the other printing on the label such that it is easy to read and prominently displayed on the product.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: 475.314

### **333-008-1225**

#### **Packaging**

(1) For purposes of this rule:

- (a) "Child-resistant safety packaging" means:

- (A) Tamper-proof containers designed and constructed to be significantly difficult for children under five years of age to open and not difficult for adults to use properly;
  - (B) Opaque so that the product cannot be seen from outside the packaging;
  - (C) Closable for any product intended for more than a single use or containing multiple servings; and
  - (D) Labeled in accordance with OAR 333-008-1220.
- (b) "Container" means a sealed, hard or soft-bodied receptacle in which a tetrahydrocannabinol-infused product is placed prior to being transferred to a patient or caregiver.
- (c) "Packaged in a manner not attractive to minors" means the tetrahydrocannabinol-infused product is not in a container that is brightly colored, depicts cartoons or images other than the logo of the facility, unless the logo of the facility depicts cartoons, in which case only the name of the facility is permitted.
- (2) A registered facility may not transfer any tetrahydrocannabinol-infused product that is meant to be swallowed or inhaled, unless the product is:
- (a) Packaged in child-resistant safety packaging; and
  - (b) Packaged in a manner that is not attractive to minors.
- Stat. Auth.: ORS 475.314  
Stats. Implemented: ORS 475.314

### **333-008-1230**

#### **Transfers to a Registered Facility**

- (1) A patient may authorize usable marijuana or immature marijuana plants to be transferred to a registered facility by signing an Authorization to Transfer form prescribed by the Authority. A patient may authorize transfers to more than one registered facility. A separate form must be provided for each registered facility. The Authorization must include, but is not limited to, the following information:
- (a) The patient's name, OMMP card number and expiration date and contact information;
  - (b) The name and contact information of the individual who is authorized to transfer the usable marijuana or immature marijuana plants to the registered facility and that individual's OMMP card number and expiration date;
  - (c) The name and address of the registered facility that is authorized to receive the usable marijuana or immature marijuana plants; and
  - (d) The date the authorization expires, if earlier than the expiration date of the patient's OMMP card.
- (2) Only a patient, the patient's designated primary caregiver, or the patient's grower may be authorized to transfer usable marijuana or immature plants to a registered facility.
- (3) The original Authorization to Transfer form must be provided to the registered facility to which a transfer may be made by the patient or person authorized to transfer the usable marijuana or immature plants. The patient should retain a copy of the Authorization to Transfer form for his or her records and provide a copy to the person authorized to transfer the usable marijuana or immature plants.
- (4) An Authorization to Transfer form automatically expires on the date the patient's OMMP card expires, unless the patient has specified an earlier expiration date. If the patient renews his or her OMMP card the patient may execute a new Authorization to Transfer form in accordance with this rule.

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

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

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

(b) The individual transferring the usable marijuana or immature plants is the individual authorized to make the transfer.

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

(a) The unique identifier;

(b) The weight in metric units of all usable marijuana received by the registered facility;

(c) The number of immature plants received by the registered facility;

(d) The amount of a finished product received by the registered facility, including, as applicable, the weight in metric units, or the number of units of a finished product;

(e) A description of the form the usable marijuana was in when it was received, for example, oil or an edible product;

(f) Who transferred the usable marijuana or the immature plant, the individual's OMMP card number and expiration date of the card, a copy of the individual's picture identification, the date the usable marijuana or an immature plant was received, and the name of the patient who authorized the transfer; and

(g) The amount of reimbursement paid by the registered facility.

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

(9) A PRF must ensure that:

(a) From the time that a batch or plant has been received by the registered facility until it is tested in accordance with these rules, the usable marijuana and immature plants are segregated, withheld from use, and kept in a secure location so as to prevent the marijuana or plants from becoming contaminated or losing efficacy, or from being tampered with or transferred except that samples may be removed for testing; and

(b) No usable marijuana or immature plants are transferred to a patient or designated primary caregiver until testing has been completed, the registered facility has received a written testing report, and the usable marijuana and immature plants have tested negative for pesticides, mold and mildew.

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314



**333-008-1245**

**Transfers to a Patient or Designated Primary Caregiver**

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

(a) Brightly colored; or

(b) In the shape of an animal or any other commercially recognizable toy or candy.

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

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

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

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

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

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

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

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

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

(f) A description of what was transferred;

(g) The date of the transfer; and

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

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

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

**333-008-1250**

**Inspections**

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

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

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

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

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

Stat. Auth.: ORS 431.262, 475.314, 475.338

Stats. Implemented: ORS 431.262, 475.314

### **333-008-1260**

#### **Violations**

(1) A registered facility is in violation of ORS 475.314 or these rules for:

- (a) A PRF or an employee of a facility failing to cooperate with an inspection;
- (b) The submission by a PRF of false or misleading information to the Authority in support of an application or in seeking to retain registration;
- (c) Transferring usable marijuana or immature plants to an individual who is not a patient or a designated primary caregiver;
- (d) Accepting a transfer of usable marijuana or immature plants without a valid authorization from the patient;
- (e) Possessing a mature marijuana plant at the registered facility;
- (f) Failing to document and maintain information in the manner required by these rules;
- (g) Failing to account for usable marijuana or immature plants on the premises of the registered facility, taking into account a five percent loss;
- (h) Failing to submit a plan of correction in accordance with OAR 333-008-1270;
- (i) Failing to comply with a final order of the Authority, including failing to pay a civil penalty; or
- (j) Failing to comply with ORS 475.314 or any of these rules.

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

### **333-008-1275**

#### **Enforcement**

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

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

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

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

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

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

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

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

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

(3) The Authority must determine whether to use the informal or formal enforcement process based on the nature of the alleged violations, whether there are mitigating or aggravating factors, and whether the PRF or the registered facility has a history of violations.

(4) The Authority must issue a Notice of Proposed Revocation if the:

(a) Facility no longer meets the criteria in ORS 475.314(3)(a) to (d); or

(b) PRF is not a resident of Oregon, has disqualifying criminal convictions as described in OAR 333-008-1120, or a court has issued an order that prohibits the PRF from participating in the OMMP under ORS 475.300 through 475.346 unless a new PRF is approved by the Authority.

(5) The Authority may maintain a civil action against a facility that is operating but not registered in accordance with ORS 475.314 and these rules.

(6) The Authority may revoke the registration of a facility for failure to comply with an ordinance adopted by a city or county pursuant to Oregon Laws 2014, chapter 79, section 2, if the city or county:

(a) Has provided the facility with due process substantially similar to the due process provided to a registration or license holder under the Administrative Procedures Act, ORS 183.413 to 183.470; and

(b) Provides the Authority with a final order that is substantially similar to the requirements for a final order under ORS 183.470 that establishes the facility is in violation of the local ordinance.

(7) The Authority must post a final order revoking the registration of a facility on the Authority's website and provide a copy of the final order to the OMMP.

(8) To the extent permitted by law, if the Authority discovers violations that may constitute criminal conduct or conduct that is in violation of laws within the jurisdiction of other state or local governmental entities, the Authority may refer the matter to the applicable agency.

(9) If the registration of a facility is revoked the PRF must make arrangements to return the usable marijuana and immature plants in amounts still possessed by the facility, to the person who transferred the usable marijuana or immature plants and must document the same.

Stat. Auth.: ORS 431.262, 475.314 & 475.338

Stats. Implemented: ORS 431.262 & 475.314

### **333-008-1280**

#### **Confidentiality**

(1) Any criminal background information received by the Authority about a PRF during the criminal background check process is confidential and is not subject to disclosure without a court order.

(2) The name of a PRF and the address of a registered facility is confidential and is not subject to disclosure without a court order, except as provided in section (5) of this rule, or unless a PRF has authorized disclosure.

(3) If an application has been denied, the information submitted to the Authority in an application for registration of a facility is not confidential and may be subject to disclosure under ORS 192.410 through 192.505.

(4) A final order revoking the registration of a facility is not confidential and may be posted on the Authority's website or otherwise made public by the Authority.

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

(a) A location is the location of a registered facility; or

(b) A person is listed as the PRF of a registered facility.

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314, 475.331

### **333-008-1290**

#### **Change of Location**

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

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

Stat. Auth.: ORS 475.314, 475.338

Stats. Implemented: ORS 475.314

### **333-008-1400**

#### **Moratoriums**

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

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

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

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

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

(a) The application is considered withdrawn and the fees refunded; or

(b) The registration has been surrendered and the fees refunded.

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

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

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

(b) By electronic mail to [medmj.dispensaries@state.or.us](mailto:medmj.dispensaries@state.or.us).

Temporary rules for the Medical Marijuana Dispensary Program  
July 31, 2014

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

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

**333-008-1190**  
**Appendix A**

**Mold and Mildew limits for cannabis products (CFU/g)**

	<b>Total yeast and mold (mold and mildew)</b>
<b>Unprocessed materials*</b>	$10^4$
<b>Processed materials*</b>	$10^4$
<b>CO<sub>2</sub> and solvent based extracts</b>	$10^3$

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

*Source: American Herbal Pharmacopoeia Monograph, December 18<sup>th</sup>, 2013*

**Oregon Medical Marijuana Program rules**

**333-008-0010**

**Definitions**

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

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

derivative, mixture, or preparation of the plant or its resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

### **333-008-0020**

#### **New Registration Application and Verification**

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

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

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

(A) Driver's license;

(B) State identification card;

(C) Passport; or

(D) Military identification card.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Application fees.

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

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

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

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

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

### **333-008-0025**

#### **Marijuana Grow Site Registration**

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

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

(a) The name of the grower;

(b) The date of birth of the grower;

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

(d) The mailing address of the grower;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Stat.Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

**333-008-0045**

**Interim Changes**

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

Stat. Auth.: ORS 475.309 & 475.312

Stats. Implemented: ORS 475.309 & 475.312

**333-008-0050**

**Confidentiality**

- (1) The Authority shall create and maintain either paper or computer data files of patients, designated primary caregivers, growers, and grow site addresses. The data files shall include all information collected on the application forms or equivalent information from other written documentation, plus a copy of OMMP registry identification cards, effective date, date of issue, and expiration date. Except as provided in section (2) of this rule, the names and identifying information of registry identification cardholders and the name and identifying information of a

pending applicant for a card, a designated primary caregiver, a grower, and a marijuana grow site location, shall be confidential and not subject to public disclosure.

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

(a) Authorized employees of the Authority as necessary to perform official duties of the Authority, including the production of any reports of aggregate (i.e., non-identifying) data or statistics;

(b) Authorized employees of state or local law enforcement agencies when they provide a specific name or address. Information will be supplied only as necessary to verify:

(A) That a person is or was a lawful possessor of a registry identification card;

(B) That a person is or was a person responsible for a registered medical marijuana facility;

(C) That the address is or was a documented grow site, and how many people are authorized to grow at that grow site;

(D) How many people a person was or is authorized to grow for; or

(E) That an address is or was the location of a registered medical marijuana facility.

(c) Other persons (such as, but not limited to, employers, lawyers, family members) upon receipt of a properly executed release of information signed by the patient, the patient's parent or legal guardian, designated primary caregiver or grower. The release of information must specify what information the Authority is authorized to release and to whom.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

### **333-008-0120**

#### **System to Allow Verification of Data at All Times**

(1) The Authority shall establish an interactive method to allow authorized employees of state and local law enforcement agencies to use the Oregon State Police Law Enforcement Data System (LEDS) to query an OMMP data file in order to verify at any time whether a particular patient, designated primary caregiver, grower, person responsible for a medical marijuana facility, grow site location, or medical marijuana facility is listed or registered with the Authority.

(2) LEDS access will only allow a yes or no answer to the query and the information obtained may not be used for any other purpose other than verification.

(3) The Authority may allow the release of reports related to verification if it is without identifying data.

(4) The Authority shall have staff available by phone to verify law enforcement agency employee questions during regular business hours in case the electronic verification system is down, and in the event the system is expected to be down for more than two business days, the Authority shall ensure program staff are available by phone for verification purposes.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 – 475.346