

CITY COUNCIL MONTHLY MEETING CALENDAR

September-15						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1 Farmers Market 1st Wed	2 Farmers Market 1st Wed	3	4	5
		Friends&Family Night 5pm CCI 5:30 pm	CCI Forum: Plastic Bag Ordinance 5pm - Comm Aud	EDC Noon -Moved 10th	S&CC 1st Friday	
6	CITY OFFICES CLOSED	7 Red Cross Blood Drive 1pm - 6pm - Comm Aud	8 PC Open House Dev Code 6pm - Comm Aud	9 EDC Noon	10 HB Mayor 9/11 Memorial 9:45 am Rotary Golf 10am WC Mayors Cancelled	11
		Library 6:30pm Planning Comm Cancelled	MPAC 5pm Farmers Market	CAO 5pm WC Museum PAC 5pm		12
13	CITY COUNCIL 5:30 PM - WORK SESSION (B&C Interviews) 6:00 PM - WORK SESSION (Marijuana Part II) 7:00 PM - REGULAR MEETING COMMUNITY AUDITORIUM	14 Open House Firwood Sewer Extension 6pm - Comm Aud	15 Municipal Court P&R 7am CFC 5:15pm CAO 5pm CWAC 5:30pm Farmers Market	16	17 City Fair Health Benefits 7am-2:30 pm Comm Aud City Manager's Welcome Reception 5-8 pm Comm Aud	18
		Fernhill Wetlands 5:30pm	Farmers Market	Food Film 7:30pm		19 Chalk Art Corn Roast
20 Chamber Luncheon FGS&CC Bd Mtg 6:30pm Planning Comm 7pm		21	22 PSAC 7:30am LOC Board Mtg 10am MPAC 5pm Ford Leadership 4pm Farmers Market	23	LOC Annual Conference, Bend	
		WEA Bkft Summit 7:30am HLB 7:15pm		Sustainability 6pm		24 Prescription Medis Turn In Police St - 10am
27	CITY COUNCIL 7:00 PM - REGULAR MEETING COMMUNITY AUDITORIUM	28	29 Municipal Court Farmers Market	30		
ICMA Conference, Seattle						
October-15						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1 FG Delegation Recap 5:45pm - Mayor's Home	2	3 Historic FG Grave Matters 3pm
				EDC Noon	S&CC 1st Friday	
4		5	6 Farmers Market 1st Wed Bike & Ped Safety Forum 7pm - Comm Aud	7	8	9 WC Museum 5pm Public Safety Open House Fire St - 10am
	Planning Comm 7pm	CCI 5:30pm	RPAG -CB 7pm	PAC 5pm	WC Mayors JWC Noon	
11	CITY COUNCIL 7:00 PM - REGULAR MEETING COMMUNITY AUDITORIUM	12 Red Cross Blood Drive 1pm - 6pm - Comm Aud	13 Municipal Court MPAC 5pm Farmers Market	14	15 Virginia Garcia Health Ct Anniversary 5:30pm	16
		Library 6:30pm	Farmers Market	Food Film 7:30pm		
18 Chamber Luncheon FGS&CC Bd Mtg 6:30pm Planning Comm 7pm		19	20 P&R 7am CFC 5:15pm CAO 5pm CWAC 5:30pm Farmers Market	21	22	23 Annual Mayor's Dinner & Auction 6pm - FGSCC
		Fernhill Wetlands 5:30pm	Farmers Market	WEA Breakfast Sustainability 6pm	ODF 8am	
25	CITY COUNCIL REGULAR MEETING MOVED TO OCTOBER 30th	26	27 Municipal Court PSAC 7:30am MPAC 5pm Farmers Market	28	29	30 CITY COUNCIL 9:00 AM - REGULAR MEETING COMMUNITY AUDITORIUM
		HLB 7:15pm			Nyuzen Student Delegation Visit - Oct 29 - Nov 2	
November-15						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1 HB Thompson		2 Red Cross Blood Drive 1pm - 6pm - Comm Aud CCI 5:30pm Election Day	3 Municipal Court Farmers Market 1st Wed	4	5	6 Verboort Event 10am
	Planning Comm 7pm			EDC Noon	S&CC 1st Friday	
Nyuzen Students Depart						
NLC Conference - Nashville						
8	CITY COUNCIL 7:00 PM - REGULAR MEETING COMMUNITY AUDITORIUM	9	10	11	12	13
		Library 6:30pm	MPAC TBA Farmers Market			
15	Chamber Luncheon FGS&CC Bd Mtg 6:30pm Planning Comm 7pm	16	17 Municipal Court P&R 7am CFC 5:15pm CAO 5pm CWAC 5:30pm Farmers Market	18	19	20
		Fernhill Wetlands 5:30pm	Farmers Market	Food Film 7:30pm		
22	CITY COUNCIL 7:00 PM - REGULAR MEETING COMMUNITY AUDITORIUM	23	24 PSAC 7:30am MPAC 5pm Farmers Market	25	26	27
		HLB 7:15pm			CITY OFFICES CLOSED	CITY OFFICES CLOSED
29		30				
				WEA Breakfast Sustainability 6pm		

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FOREST GROVE CITY COUNCIL

Monday, September 14, 2015

Meeting Agenda

5:30 PM – Work Session (B&C Interviews)
6:00 PM – Work Session (Marijuana Requirements Part II)
7:00 PM – Regular Meeting

Community Auditorium
1915 Main Street
Forest Grove, OR 97116

Forest Grove City Council Meetings are televised live by Tualatin Valley Community Television (TVCTV) Government Access Programming, Ch 30. To obtain the programming schedule, please contact TVCTV at 503.629.8534 or visit <http://www.tvctv.org/government-programming/government-meetings/forest-grove>.

PETER B. TRUAX, MAYOR

Thomas L. Johnston, Council President
Richard G. Kidd III
Victoria J. Lowe

Ronald C. Thompson
Elena Uhing
Malynda H. Wenzl

All meetings of the City Council are open to the public and all persons are permitted to attend any meeting except as otherwise provided by ORS 192. The public may address the Council as follows:

→ Public Hearings – Public hearings are held on each matter required by state law or City policy. Anyone wishing to testify should sign in for any Public Hearing prior to the meeting. The presiding officer will review the complete hearing instructions prior to testimony. The presiding officer will call the individual or group by the name given on the sign in form. When addressing the Council, please use the witness table (center front of the room). Each person should speak clearly into the microphone and must state his or her name and give an address for the record. All testimony is electronically recorded. In the interest of time, Public Hearing testimony is limited to three minutes unless the presiding officer grants an extension. Written or oral testimony is heard prior to any Council action.

→ Citizen Communications – Anyone wishing to address the Council on an issue not on the agenda should sign in for Citizen Communications prior to the meeting. The presiding officer will call the individual or group by the name given on the sign in form. When addressing the Council, please use the witness table (center front of the room). Each person should speak clearly into the microphone and must state his or her name and give an address for the record. All testimony is electronically recorded. In the interest of time, Citizen Communications is limited to two minutes unless the presiding officer grants an extension.

The public may not address items on the agenda unless the item is a public hearing. Routinely, members of the public speak during Citizen Communications and Public Hearings. If you have questions about the agenda or have an issue that you would like to address to the Council, please contact the City Recorder at 503-992-3235.

City Council meetings are handicap accessible. Assistive Listening Devices (ALD) or qualified sign language interpreters are available for persons with impaired hearing or speech. For any special accommodations, please contact the City Recorder at 503-992-3235, at least 48 hours prior to the meeting.

**FOREST GROVE CITY COUNCIL AGENDA
SEPTEMBER 14, 2015
PAGE 2**

<p>Anna Ruggles, City Recorder Jesse VanderZanden, City Manager</p>	<p><u>5:30</u></p>	<p><u>WORK SESSION: BOARDS, COMMITTEES AND COMMISSIONS (B&C) INTERVIEWS</u></p> <p>The City Council will convene in the Community Auditorium – Conference Room to conduct the above work session(s). The public is invited to attend and observe the work session(s); however, no public comment will be taken. The Council will take no formal action during the work session(s).</p>
<p>Jon Holan, Community Development Director J. F. Schutz, Police Chief Kevin Ellingsburg, Police Captain Jesse VanderZanden, City Manager</p>	<p><u>6:00</u></p>	<p><u>WORK SESSION: MARIJUANA REQUIREMENTS PART II</u></p> <p>The City Council will convene in the Community Auditorium to conduct the above work session(s). The public is invited to attend and observe the work session(s); however, no public comment will be taken. The Council will take no formal action during the work session(s).</p>
<p>Mayor Peter Truax J. F. Schutz, Police Chief</p>	<p><u>7:00</u></p>	<p>1. <u>REGULAR MEETING:</u> Roll Call and Pledge of Allegiance</p> <p>1. A. <u>INTRODUCTION OF CITY MANAGER:</u></p> <ul style="list-style-type: none"> • <i>Michael “Jesse” VanderZanden, City Manager</i> <p>1. B. <u>SWEARING-IN CEREMONY:</u></p> <ul style="list-style-type: none"> • <i>Nicole A. Freelove, Police Officer</i> • <i>Bradley D. Schuetz, Police Officer</i> <p>1. C. <u>PROCLAMATIONS:</u></p> <ul style="list-style-type: none"> • <i>Fill The Boot for MDA, presenting to Forest Grove Fire and Rescue, Michael Kinkade, Fire Chief</i> • <i>Community Action 50th Anniversary & Community Action Week, October 11 ~ 17, 2015, requested by Catherine Crooker, Director of Advancement</i> <p>2. <u>CITIZEN COMMUNICATIONS:</u> Anyone wishing to speak to Council on an item <u>not on the agenda</u> may be heard at this time. <i>Please sign-in before the meeting on the Citizen Communications form posted in the foyer.</i> In the interest of time, please limit comments to two minutes. Thank you.</p> <p>3. <u>CONSENT AGENDA:</u> See Page 4</p> <p>4. <u>ADDITIONS/DELETIONS:</u></p> <p>5. <u>PRESENTATIONS:</u> None.</p>

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|--|------|---|
| Jon Holan, Community Development Director
Dan Riordan, Senior Planner
Jesse VanderZanden, City Manager | 7:15 | 6. <u>PUBLIC HEARING AND FIRST READING OF ORDINANCE NO. 2015-08 ANNEXING A TRACT OF LAND LOCATED AT 1525 B STREET (PORTION OF WASHINGTON COUNTY TAX LOT NO. 1S306CB00500) INTO THE CITY LIMIT OF FOREST GROVE AND WITHDRAWING THE TRACT FROM FOREST GROVE RURAL FIRE PROTECTION DISTRICT. APPLICANT: WASTE MANAGEMENT CORPORATION. FILE NO. ANX-15-00537</u> |
| Brenda Camilli, Human Resources Manager
Jesse VanderZanden, City Manager | 7:30 | 7. <u>RESOLUTION NO. 2015-66 ADOPTING REVISIONS TO CITY OF FOREST GROVE EMPLOYEE HANDBOOK AND REPEALING RESOLUTION NO. 2010-33</u> |
| Paul Downey, Administrative Services Director
Jesse VanderZanden, City Manager | 7:45 | 8. <u>RESOLUTION NO. 2015-67 EXTENDING CITY OF FOREST GROVE WORKERS' COMPENSATION COVERAGE TO VOLUNTEERS OF THE CITY OF FOREST GROVE AND REPEALING RESOLUTION NOS. 2007-63 AND 2010-20</u> |
| Mayor Peter Truax
Anna Ruggles, CMC, City Recorder
Jesse VanderZanden, City Manager | 7:55 | 9. <u>RESOLUTION NO. 2015-68 APPROVING TO MOVE THE REGULAR CITY COUNCIL MEETING FROM MONDAY, OCTOBER 26, 2015, TO FRIDAY, OCTOBER 30, 2015</u> |
| Jesse VanderZanden, City Manager | 8:00 | 10. <u>CITY MANAGER'S REPORT:</u> |
| | 8:15 | 11. <u>COUNCIL COMMUNICATIONS:</u> |
| | 8:30 | 12. <u>ADJOURNMENT:</u> |

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3. **CONSENT AGENDA:** Items under the Consent Agenda are considered routine and will be adopted with a single motion, without separate discussion. Council members who wish to remove an item from the Consent Agenda may do so prior to the motion to approve the item(s). Any item(s) removed from the Consent Agenda will be discussed and acted upon following the approval of the Consent Agenda item(s).
- A. Approve City Council Work Session (B&C Interviews) Meeting Minutes of August 10, 2015)
 - B. Approve City Council Work Session (Police Facility Needs Assessment) Meeting Minutes of August 10, 2015.
 - C. Approve City Council Regular Meeting Minutes of August 10, 2015.
 - D. Accept Historic Landmarks Board Meeting Minutes of July 28, 2015.
 - E. Accept Library Commission Meeting Minutes of June 2, 2015.
 - F. Accept Parks and Recreation Commission Meeting Minutes of June 17, 2015.
 - G. Accept Public Arts Commission Meeting Minutes of July 9, 2015.
 - H. Community Development Department Monthly Building Activity Informational Report for July and August 2015.
 - I. **ENDORSE LIQUOR LICENSE CHANGE OF OWNERSHIP APPLICATION (LIMITED ON-PREMISES SALES) FOR FG BOWL, LLC, 2748 19TH PLACE (APPLICANT: ALLYN CLARK).**
 - J. **RESOLUTION NO. 2015-63 MAKING APPOINTMENT TO LIBRARY COMMISSION (APPOINTING MITCHELL FARIS, STUDENT ADVISOR, TERM EXPIRING DECEMBER 31, 2016).**
 - K. **RESOLUTION NO. 2015-64 MAKING APPOINTMENT TO PARKS AND RECREATION COMMISSION (APPOINTING BRAD BAFARO, AT-LARGE, TERM EXPIRING DECEMBER 31, 2017).**
 - L. **RESOLUTION NO. 2015-65 MAKING APPOINTMENT TO SUSTAINABILITY COMMISSION (APPOINTING JACOB ROSE, PACIFIC UNIVERSITY STUDENT ADVISOR, TERM EXPIRING DECEMBER 31, 2016).**
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TO: Mayor Peter Truax and City Councilors

PROJECT TEAM: Anna D. Ruggles, CMC, City Recorder
Jesse VanderZanden, City Manager

DATE: September 14, 2015

SUBJECT: B&C Recruitment Interviews

BACKGROUND:

Attached you will find the following items for the Boards, Committees, and Commissions interview(s) scheduled for Monday, September 14, 2015, City Council Work Session.

- Boards, Committees, Commissions Number of Vacancies;
- Possible Interview Questions; and
- Application(s)

STAFF RECOMMENDATION: Conduct interview of the applicant(s) who expressed interest in serving on Advisory Boards, Committees, and Commissions. Determine new appointment(s). Based on Council's recommendation, resolution(s) making formal appointment(s) will be presented for Council consideration at the next regular Council meeting.

2015 – BOARDS, COMMITTEES & COMMISSIONS VACANCIES

COMMISSION	REQUIREMENTS	# VACANCIES	EXPIRES
BUDGET Meets in April/May	7 – Members 3 – Year Term; All members must live in City per ORS		
COMMITTEE FOR CITIZEN INVOLVEMENT Meets 1 st Tuesday, 5:30 pm	7 – Members - 4 – Year Term Student Advisor	1 – Vacancy 1 – Student Vacancy	01/31/19 01/31/16
COMMUNITY FORESTRY COMMISSION Meets 3 rd Wednesday, 5:15 pm	7 – Members - 3 – Year Term 3 members may live outside City – Currently 3 Student Advisor	1 – Vacancy 1 – Student Vacancy	12/31/15 12/31/16
ECONOMIC DEVELOPMENT COMMISSION Meets 1 st Thursday, Noon	19 – Members - 3 – Year Term 6 Public & Non-Profit; 12 Business 1 At-Large Student Advisor	1 – Student Vacancy	12/31/16
HISTORIC LANDMARKS BOARD Meets 4 th Tuesday, 7:15 pm	7 – Members - 4 – Year Term 2 members may live outside City – Currently 0 Student Advisor	1 – Vacancy 1 – Vacancy 1 – Vacancy 1 – Student Vacancy	12/31/16 12/31/16 12/31/18 12/31/16
LIBRARY Meets 2 nd Tuesday, 6:30 pm	7 – Members - 2 – Year Term Student Advisor	1 – Vacancy 1 – Vacancy	12/31/15 12/31/15
PARKS & RECREATION COMMISSION Meets 3 rd Wednesday 7:00 am	9 – Members - 4 – Year Term 3 members At-Large – Currently 2 2 members may live outside City – Currently 1 1 member each district: NNW = Forest Glen, Knox Ridge, Thatcher/Loomis; NW = Lincoln, Hazel Sills, Aquatic Center, Talisman; SW = Rogers; SE = Joseph Gale; NE = Bard and Stites Parks Student Advisor	1 – Student Vacancy	12/31/16
PLANNING COMMISSION Meets 1 st and 3 rd Monday 7:00 pm	7 – Members - 4 – Year Term 2 members may live outside City – Currently 1 1 member in real estate for profit – Currently 1 2 members same trade/occupation – Currently 0		
PUBLIC ARTS COMMISSION Meets 2 nd Thursday, 5:00 pm	9 – Members - 3 – Year Term All members At-Large		
PUBLIC SAFETY ADVISORY COMMISSION Meets 4 th Wednesday 7:30 am	7 – Members - 4 – Year Term 2 members Rural Fire District – Currently 0 Non-Voting Reps Rural Fire Dist; Chamber; FG School District; and Pacific University	1 – Citizen Fire District 1 – Citizen Fire District 1 – Student Vacancy	12/31/16 12/31/17 12/31/15
SUSTAINABILITY COMMISSION Meets 4 th Thursday 6:00 pm	13 – Members - 4 – Year Term 3 At-Large; Voting Reps Clean Water Services; Economic At-Large; Educator; Ethnic/Cultural Affiliation; FG School District; Non-Profit Service; Pacific University; Sustainable Business; 1 Pacific University Student; and 1 – FG High School Student		

Possible Questions for B&C Applicant Interviews:

Please feel free to use any questions and/or information that you wish in order to conduct a successful interview. Please note: 5-7minutes are allotted for question and answer time.

If there were one area you've always wanted to improve upon, what would that be?

What can you offer the advisory board on which you would like to serve?

What are some of your proudest achievements?

What ideas do you have for increasing citizen involvement in Forest Grove?

Is there an area in which you think the City may be letting its citizens down? If so, what would that be?

What do you see as a critical need or a major concern facing the City?

Do you favor growth or do you feel the City is currently big enough?

How would you respond to an unpopular decision that is strongly criticized by the public? Such as making an unpopular decision that may go against property owners' desire or that is not supported by your friends and neighbors.

What ideas do you have that would help Forest Grove become a more sustainable community?

Do you have any grant-writing experience? _____

In addition, Mayor, please ask:

Do you have any conflict with the meeting date(s) and time(s) of the advisory board to which you have applied? _____

If we cannot appoint you to your first choice, are there any other advisory boards that interest you?

May we keep your application on file? _____

Do you have any questions for us? _____

Note: Once Council renders a decision on the status of the selected appointment(s), the City Recorder will notify applicant soon thereafter.

CITIZEN ADVISORY BOARDS, COMMITTEES

INTERVIEW
SEPT 14, 2015
5:30pm

RECEIVED
JUN 19 2015
BY: *Jaime Johnson*

(Please complete, sign and date application form and return to
City of Forest Grove
Attn: Anna Ruggles, City Recorder
1924 Council Street • P. O. Box 326
Forest Grove, OR 97116-0326
Fax • 503.992.3207 Office • 503.992.3235
aruggles@forestgrove-or.gov

Please check the Advisory Board on which you would like to be considered for appointment. If interested in serving on multiple Boards, please list the order of preference (1-10). Terms vary. (Please note: The meeting dates/times are subject to change with advance notice).

<input type="checkbox"/> Budget Committee	3-4 times in May	<input type="checkbox"/> Parks & Recreation Commission	3 rd Wednesday, 7am
<input checked="" type="checkbox"/> Committee for Citizen Involvement	1 st Tuesday, 5:30pm	<input type="checkbox"/> Planning Commission	1 st & 3 rd Monday, 7pm
<input type="checkbox"/> Community Forestry Commission	3 rd Wednesday, 5:15pm	<input type="checkbox"/> Public Arts Commission	2 nd Thursday, 5pm
<input type="checkbox"/> Economic Development Commission	1 st Thursday, Noon	<input type="checkbox"/> Public Safety Advisory Commission	4 th Wednesday, 7:30am
<input type="checkbox"/> Historic Landmarks Board	4 th Tuesday, 7:15pm	<input type="checkbox"/> Sustainability Commission	4 th Thursday, 6pm
<input type="checkbox"/> Library Commission	2 nd Tuesday, 6:30pm		

NAME: MJ Guidetti-Clapshaw HOME PHONE: [REDACTED]
 RESIDENCE ADDRESS: [REDACTED] BUSINESS PHONE: [REDACTED]
 MAILING ADDRESS: _____ E-MAIL: [REDACTED]
 EMPLOYER: Eshraghi Nursery/Farmington Gardens OCCUPATION/PROFESSION: Dept. Manager/Buyer

Years living in Forest Grove? 6 Live in City limits? Yes How did you hear of this opportunity? City website

How would you currently rate City's performance? Excellent Good Fair Poor

What ideas do you have for improving "Fair" or "Poor" performance? creating small events, meetings or gatherings targeted to neighborhoods, (similar to National Night Out). Keep encouraging local businesses, council members and the mayor to stay connected to these neighborhoods.

Why are you interested in serving on the Advisory Board/Committee/Commission? I enjoy being involved with my community I see my community and city as an extension of my family, It is important to have a better understanding of why & how decisions are being made. I would like to be part of this process & inspire others to do so.

What contributions do you feel you can/will make to the Board/Committee/Commission? I have the skills & desire to inspire others to be involved. I believe events, small or large, can bring people together, building a stronger community. I have experience organizing and managing events, I am highly motivated with any project I take on.

What qualifications, skills, or experiences would you bring to the Board/Committee/Commission? I communicate clearly to a variety of different people, I am organized, reliable and follow through with all projects. I have experience getting people involved with new projects and ideas, helping them follow through and setting them up to be successful.

Previous/current appointed or elected offices: Various job related groups and projects, PTA President, Seattle, WA

Previous/current community affiliations or activities: _____

If not appointed at this time, may we keep your name on file? Yes No

Signature: Mary Jane Guidetti-Clapsha DATE: 6/19/2015

I have sufficient legal liability to accept this responsibility and am able to attend required meetings & activities.

M-J Guidetti-Clapshaw

(App 01/14)



CITIZEN ADVISORY BOARDS, COMMITTEE

Interview Sept 14, 2015 5:00pm

RECEIVED AUG 06 2015 BY:

(Please complete, sign and date application form and return to: City of Forest Grove Attn: Anna Ruggles, City Recorder 1924 Council Street • P. O. Box 326 Forest Grove, OR 97116-0326 Fax • 503.992.3207 Office • 503.992.3235 aruggles@forestgrove-or.gov

Please check the Advisory Board on which you would like to be considered for appointment. If interested in serving on multiple Boards, please list the order of preference (1-10). Terms vary. (Please note: The meeting dates/times are subject to change with advance notice).

- Budget Committee 3-4 times in May
Committee for Citizen Involvement 1st Tuesday, 5:30pm
Community Forestry Commission 3rd Wednesday, 5:15pm
Economic Development Commission 1st Thursday, Noon
Historic Landmarks Board 4th Tuesday, 7:15pm
Library Commission 2nd Tuesday, 6:30pm
Parks & Recreation Commission 3rd Wednesday, 7am
Planning Commission 1st & 3rd Monday, 7pm
Public Arts Commission 2nd Thursday, 5pm
Public Safety Advisory Commission 4th Wednesday, 7:30am
Sustainability Commission 4th Thursday, 6pm

NAME: Kevin Canales
RESIDENCE ADDRESS: [Redacted]
MAILING ADDRESS: [Redacted]
EMPLOYER: Wells Fargo
HOME PHONE: [Redacted]
BUSINESS PHONE: [Redacted]
E-MAIL: [Redacted]
OCCUPATION/PROFESSION: Collector

Years living in Forest Grove? 7 Live in City limits? Yes How did you hear of this opportunity? David Anderson

How would you currently rate City's performance? [X] Excellent [] Good [] Fair [] Poor

What ideas do you have for improving "Fair" or "Poor" performance? Collecting feedback from the community residents and creating an action plan to meet their expectations

Why are you interested in serving on the Advisory Board/Committee/Commission? Feeling to be involved in the community

What contributions do you feel you can/will make to the Board/Committee/Commission? I can provide perspective from the hispanic community

What qualifications, skills, or experiences would you bring to the Board/Committee/Commission? Office administration, community planning, activity planning

Previous/current appointed or elected offices:

Previous/current community affiliations or activities:

If not appointed at this time, may we keep your name on file? Yes No
Signature: [Handwritten Signature] Date: 07/21/15
I have sufficient time to devote to this responsibility and will attend the required meetings if awarded

(App 01/14)

Memorandum

To: City Council
From: Jon Holan, Community Development Director
Janie Schutz, Police Chief
Paul Downey, Administrative Services Director
Jesse Vanderzanden, City Manager
Date: September 14, 2015
Re: Work Session on Marijuana Requirements – Part II

- ❖ **Issue:** Last April, the City adopted new regulations for the location, development and operation of medical marijuana dispensaries. Recently, the Legislature passed HB 3400 that amended the Oregon Medical Marijuana Act and Measure 91. Two other bills pertaining to marijuana also passed including HB 2041 (sales tax) and SB 460 (authorizing medical marijuana dispensaries to sell recreational marijuana for a limited period of time). All three of these bills have been signed by the Governor. The three pieces of legislation resulted in regulation of seven types of marijuana activities. (A fourth piece of legislation was passed by the legislature but not yet signed by the Governor (SB 844), but that pertains to the formation of a marijuana task force and other items that are not relevant to this analysis.)

The purpose of this work session is to review those requirements and provide guidance on the appropriate course of action for Forest Grove. This discussion pertains to medical marijuana business operations devoted to these seven activities and does not address issues associated with individuals conducting any of these activities. That will be discussed at the end of this memo.

The following attachments are included with this staff report to provide background information for this review:

- Summary of the state legislation prepared by LOC (Attachment 1);

- Guide entitled “Local Government Regulation of Marijuana in Oregon” prepared by League of Oregon Cities (Attachment 2);
- Copy of HB 3400, HB 2041 and SB 460 (Attachments 3, 4 and 5, respectively);
- Zoning Analysis (Attachment 6);
- Map identifying allowable areas for Medical Marijuana Dispensaries (Attachment 7); and
- Zoning map for the City (Attachment 8).

❖ **Background and Discussion:**

State Legislative Action: State legislative action established requirements for the following marijuana activities:

- Medical marijuana dispensaries (which the City has already adopted code provisions to address);
- Commercial marijuana retailers;
- Medical and commercial marijuana processors (preparing edibles, skin and hair products, concentrates and extracts);
- Medical and commercial marijuana producers (growers); and
- Commercial marijuana wholesalers.

State law (HB 3400, Sections 33 and 89) expressly provides that local government may impose reasonable regulations on:

- The hours of operation of retail licensees and medical marijuana grow sites, processing sites, and dispensaries;
- The location of all four types of commercial licensees (retail, processing, wholesale and growing), as well as medical marijuana grow sites, processing sites, and dispensaries, except that a city may not impose more than a 1,000 foot buffer between retail licensees;
- The manner of operation of all four types of commercial licensees, as well as medical marijuana processors and dispensaries; and
- The public’s access to the premises of all four types of commercial licenses, as well as medical marijuana grow sites, processing sites, and dispensaries.

The law also requires medical marijuana dispensaries and commercial retail stores to be located no closer than 1000 feet from public and private primary and secondary schools

(HB 3400, Sections 16, 17, 86 and 86a). In addition, the following activities are not allowed in an area zoned exclusively for residential use:

- Medical and commercial marijuana processors involving extraction of cannabinoid products; and
- Medical marijuana dispensaries and retail outlets.

(HB 3400, Sections 14(2)(c) and 85(3)(a) for processors, and HB 3400, Sections 16 and 86 for dispensaries and retail outlets).

Further, medical marijuana dispensaries must be located beyond 1000 feet from other dispensaries (HB 3400, Section 86). The legislation (both HB 3400 and HB 2041) also addresses sales taxes related to marijuana sales.

Current City Regulations and Issues: Based on the legislation and current City requirements, there are two general areas of discussion: where these facilities should be located (if at all) and what type of requirements should be applied. Based on those two general topic areas, the following are items for discussion staff has identified:

LOCATION

Ban or Allow:

Should the City ban marijuana activities? - State law allows the City to ban 6 of the 7 activities (state law does not authorize cities to ban medical marijuana grow sites although LOC indicates there may be authority under Home Rule or federal preemption – see discussion of grow operations in residential districts below). An ordinance to prohibit those activities must be referred to the voters at the next statewide general election (HB 3400, Section 134). Further, a local jurisdiction that prohibits all activities is not eligible to either establish a local sales tax (HB 3400, Section 134(5)) or receive local shares of the state collected sales tax (HB 2041, Section 14(4)). This prohibition also may likely extend to banning any one activity (see Attachment 2, page 11). As background, 4033 voters (53%) in Forest Grove precincts supported Measure 91 while 3508 voters (47%) opposed the measure.

Should the City ban or allow early retail sales in dispensaries – Senate Bill 460 will allow medical marijuana dispensaries from October 1, 2015 to December 31, 2016 to sell no more than one-quarter of one ounce of limited marijuana retail product (seeds or dried leaves or flowers) to a person (21 years old or older) per day. No more than four units of limited marijuana retail product to the person if the person is purchasing a marijuana

plant. The law also allows a local jurisdiction to prevent dispensaries to conduct these sales. *Should the city prevent these sales?*

It should be noted that at a discussion at MTAC, city representatives indicated that such a ban must be adopted by October 1st. However, when reviewing the legislation and confirmed by legal staff, there is no such requirement in the law. As a practical matter, a ban may need to be in place before October 1st to avoid confusion (i.e. yes you can, now you can't). It is possible that one to two dispensaries could be in operation by October 1st. If so, it would have to be done as an emergency ordinance at the Council's September 28th meeting to meet the October 1st date.

Local Restrictions: If these facilities are not banned, to what extent should the City regulate marijuana related activities?

The extent of current City regulations as to location is as follows:

Location: Based on the approved code amendments for medical marijuana dispensaries and current development code provisions (see Attachment 6 for zoning analysis), the seven marijuana facilities would be allowed in the following zone districts:

- Medical Marijuana Dispensaries: Community Commercial District (see Attachment 7 for location)
- Commercial Marijuana Retailers: Neighborhood and Community Commercial districts, and all Town Center districts (note: due to the buffer requirements around primary and secondary schools, no retailers could locate in any of the current Town Center districts). Likely in all residential districts except Suburban Residential (see discussion below).
- Medical and Commercial Marijuana Processors: General Industrial District
- Commercial Marijuana Wholesalers: General and Light Industrial districts
- Grow Operations: All residential districts except RMH (reduced number of mature plants per grow site) and General and Light Industrial districts.

(see Attachment 8 for Zoning Map)

Exclusive Residential Areas – State law prohibits marijuana dispensaries and retail sales and processors extracting cannabinoid products from locating in an area zoned exclusively for residential use. It is not certain what that means since most any residential zone district allows non-residential uses (e.g. parks). Further, the City's residential zone districts do allow small (2,000 square feet maximum building size) neighborhood commercial stores. *Does the City Council want to allow such uses in residential areas?* If not, staff recommends amendments to the Development Code to specifically exclude marijuana sales in the definition of neighborhood store. Based on

the zoning analysis, processors are only allowed in the General Industrial District and are not a concern about permitting in residential areas.

Grow Operations in Residential Districts – *Commercial* grow operations (at a lower number of plants per grow site) can occur in most residential districts (with the exception of the RMH district). *Does the City Council want to allow that type of activity?*

State law does not authorize cities to ban *medical* marijuana grow sites. However, LOC (Attachment 2, pages 10-11) raises the question of cities banning that activity on the basis of Home Rule authority or Federal preemption. The City Attorney indicates that it is his opinion that the City could ban medical marijuana grow sites for specific areas (e.g. residential zone districts) based on home rule authority. The Attorney also indicated that it would be difficult to ban these grow sites citywide. *Based on this determination, should the City allow or prohibit medical marijuana grow sites in residential or other zone districts?*

Retail in NC and Town Center Districts - Staff's primary concern is allowing retail facilities in the Neighborhood Commercial districts and Town Center, for the same reasons expressed in the staff report for medical marijuana dispensaries. That is, impacts on adjacent land uses are not known for the Town Center area and the Neighborhood Commercial district would essentially allow these uses in residential neighborhoods.

Limiting these facilities to the Community Commercial district provides opportunities for their location, particularly since there is no separation requirement between stores in state law as there is for dispensaries (see discussion below on separation). *Should the City maintain the same locational limitations for commercial retail as for medical marijuana dispensaries?*

Spacing Standards:

Industrial Space – It has been reported that marijuana related facilities in industrial areas have driven up the value of facilities which may impact the ability for a jurisdiction to attract other industrial uses. A Denver Post article in May, 2015 reports that last year (2014) it is estimated that marijuana cultivation and manufacturing facilities in Denver occupied at least 4.5 million square feet. The same article also indicated that rent for industrial space for the first quarter of 2015 is at \$7.47 per square foot which increased by 10% over the same period the previous year. The cause of this growth is partly due to demand from the marijuana cultivation and manufacturing facilities. *Should grow and processing facilities be limited in number or*

prohibited in industrial areas (with the possible exception of medical marijuana grow sites)?

To control the number of grow and processing facilities (both medical and commercial) in a community (particularly in industrial areas), some cities in the Portland area are considering spacing standards for grow and process operations. These would be distance standards to separate such facilities but could also be distances from schools as specified by state law for dispensaries and retail outlets. Forest Grove does allow both types of operations in the industrial districts but to date staff has not received any inquiries about such activities.

Marijuana Retail Facilities: State law does not establish a separation requirement for marijuana retail facilities although it authorizes local jurisdictions the authority to require separation no greater than 1000 feet, the same as medical marijuana dispensaries. *Should the City establish spacing standards for retail facilities?*

Other Facilities: There are no spacing standards in state law (with the exception of medical marijuana dispensaries) although it does authorize local jurisdictions to establish such a standard for all commercial activities and medical marijuana grow sites and processing facilities. *Does the City want to establish a separation requirement for all marijuana activities or particular types of activities (see below for grow and processing facilities)?*

OPERATIONAL REGULATIONS

Current Regulations - Current regulations in the Development Code on medical marijuana dispensaries (besides location) include:

- Compliance with state requirements;
- Hours of closure to the public between 10 pm and 8 am;
- Entrances and off-street parking areas be well lit and not visually obscured from public view and rights-of-way;
- Facility located in a permanent building with no outdoor storage of merchandise, raw materials or other materials associated with the facility;
- Site or building exterior must comply with City design standards with security bars or grates prohibited unless integrated into the design;
- No drive-up use; and
- Provide secure disposal or render impotent marijuana remnants or by-products.

Operational requirements under the City code include:

- Compliance with state law;

- Obtaining a business license;
- Hours of closure between 10 pm and 8 am;
- All products and paraphernalia be enclosed in an opaque bag or container upon exiting the facility; and
- Provide secure disposal or render impotent marijuana remnants or by-products.

Extend standards to all seven marijuana activities – State law authorizes local jurisdictions to establish hours of operation for medical marijuana dispensaries, grow and processing sites as well as commercial retail operations. The law does not address local jurisdiction authority to commercial processing, producers and wholesale activities. The City Attorney has indicated it is his opinion that there would be little risk if the City enacts reasonable time/place/manner restrictions on recreational marijuana activities.

Should current hours of operation requirements for dispensaries be applied to all or particular marijuana activities, as appropriate? For example, the operational requirement for opaque bags or containers should be clarified to apply to all sales to the public. It appears to be an unreasonable or unnecessary requirement for a processor, wholesaler or grower. Packing materials for these operations would likely be in boxes or other opaque materials.

Processing - Another operational issue involves processing facilities involving extraction. The Fire Department reports that there have been two residential events caused by hash oil extraction from marijuana plants. The primary issue was forcing butane through a tube using compressed air and storage of a large amount of butane at a residence. *Should there be any special operational requirements for such uses?*

Staff discussion of the question indicates that none would be needed. Legally in Forest Grove, processors are only allowed in the General Industrial District. Building construction, sprinkler requirements and hazardous materials requirements should address any processing hazards. The events noted above were illegal and any regulation would not have prevented their occurrence.

OTHER DISCUSSION ITEMS

Electrical and Water Service: State law does not change the legal status of marijuana as a controlled substance, only enforcement (of lack of) regarding the possession, growing and processing of the drug in Oregon. At the federal level, marijuana remains an illegal substance. As a result, the Bonneville Power Authority has indicated that electric service for marijuana activities using power generated by a BPA facility is illegal. One hundred percent of the City's power supply is from federally supported operations (BPA and Grant County). The same situation exists when Forest Grove receives water from Hagg Lake since it is a Bureau of Reclamation facility.

However, the City Attorney indicates that federal ability to withhold services is when there is direct sales to operators. The Light and Power Director indicates the BPA has determined that any operation using 10 megawatts or more is considered a direct service industry and BPA would withhold sales to such operations if involved with marijuana.

A similar question was raised concerning Hagg Lake water sources since the facility is operated by the Bureau of Reclamation. The City Attorney indicates that the City has a contracted amount of water in the reservoir and the City has authority to distribute that water without federal restriction as it relates to marijuana use.

The City Code under Chapter 4 states the City Council has absolute control and supervision of the municipal water system (Section 4.010) and can adopt policies and regulations for the electrical system (Section 4.200) deemed necessary for the management and operation of the water and electrical system. In addition, the City Manager or designee may refuse to furnish electrical energy to any applicant or consumer where hazardous conditions exist at the applicant's or consumer premises, where electrical facilities are not accessible with proper clearance or where not in violation of national or state electrical codes (City Code Section 4.205(8)). The City Manager authority to refuse electrical energy to a hazardous condition is not limited to electrical conditions. *While it may be difficult to base withholding energy to an operator having received a license from the state to operate a marijuana activity, it may be a possible enforcement tool where it is found that there is a personal marijuana activity that has created a hazardous condition.*

Licensing: *Should the City consider licensing (over and above the Business License) any facilities over and above business licenses?* The City of Portland is considering a license for these facilities which would be in addition to the state requirements.

Sales Tax: *Should the City impose a sales tax on the sale of marijuana items?*

The City adopted Ordinance Number 2014-09 in September 2014 to establish a place holder to allow the City to impose a sales tax. The tax was established at 10% of the sales of marijuana and marijuana-infused products. HB 3400, Section 34a, allows a city to impose a sales tax not to exceed 3%. To do so, the governing body must submit an adopted ordinance to the voters for approval at the next statewide general election. (Note: Marijuana items are defined by state law (HB 3400, Section 1(16)) as marijuana, cannabinoid products, cannabinoid concentrates or cannabinoid extracts.) If a city prohibits any of the seven marijuana related activities, a local jurisdiction does not have the authority under state law to impose a sales tax.

LOC in its document (see Attachment 2) raises several questions with regards to the local sales tax. First, can the City continue to impose the sales tax established by Ordinance 2014-09 since it was adopted prior to the Legislature adopted HB 3400? There are two notable differences between the state provision and the City's:

- The tax authorized by the state is 3% tax on production, processing or sale of marijuana items. It is limited to commercial operations and not medical operations. The City's ordinance is 10% of the sale of marijuana items (excluding medical marijuana sales) and specifically does not apply a tax on production or processing.
- The state law requires a vote on the tax at the next general election while the City Ordinance has not had voter approval.

The City Attorney indicates that in his opinion the 10% sales tax is unenforceable. *Based on this opinion, it is suggested that if the City Council wishes to establish a sales tax, a new ordinance with the 3% sales tax would be the appropriate option.*

Second question raised by LOC is whether a sales tax can be imposed on medical marijuana (see page 10 of Attachment 2)? The City Attorney's advice on this question is that the City does not have authority to impose a tax on the production, processing or sale of medical marijuana. *While the previous City ordinance exempted sales tax on the sale of medical marijuana, any new ordinance should also explicitly exclude sales tax on production and processing of medical marijuana.*

The final tax question raised by LOC is if the City allows early sales of recreational marijuana (see discussion above, "Ban or allow retail sales in dispensaries"), can the City impose a tax on those sales (see page 10 of Attachment 2)? There is a corollary question if only a local sales tax authorized by HB 3400 is allowed, then would such a tax be in effect if a local vote is required to establish the tax? According to the City Attorney, the tax can only be applied to licensed operators. Since there would not be any licensed sellers during this early sales time, the tax could not be applied. However, the state sales tax is increased to 25% during this period of time which would increase revenues to local jurisdictions (see discussion below).

State share of revenues to local jurisdictions: In addition to a local sales tax, local jurisdictions are eligible to receive 10% of the revenues received by the state from the state imposed 17% sales tax (HB 2041, Section 14(2)). The purpose of the revenues is to assist local law enforcement in performing its duties as a result of HB 3400. Until July 1, 2017, the revenue is distributed based on population. After that date, it is based on the number of licenses (50% distributed by the number of licenses for producer, processor and wholesale activities and 50% based on the number of licenses for retail). Based on inquiries to date, it does not appear there would be a significant

number of licenses issued in Forest Grove. (To date, staff knows of two possible dispensaries and no grow or processing sites.)

Personal Marijuana Activities

As noted at the beginning of this memo, the marijuana legislation is focused on marijuana operations and not personal actions involved with any of the seven activities. As stated in the LOC document (see page 11 of Attachment 2),

“It is also important to note that HB 3400 does not provide an avenue for cities to ban the personal use and growing of marijuana.”

The City Attorney has indicated that the City always has authority to regulate activities that endanger public safety. Further, the attorney indicates that the City’s police power allows it to regulate specific aspects of marijuana processing or the processing of marijuana products provided a rational basis for the regulation is established. The attorney indicated that the closer to an outright prohibition, the more likely it has to comply with state law. If so, the Council would have to refer the ordinance prohibiting the activity to the voters and the City would not be eligible to receive sales tax revenues.

Timelines: Timelines as identified by the League of Oregon Cities summary are as follows:

- June 30, 2015 – HB 3400 becomes effective. However, many provisions of the law do not go into effect immediately.
- July 1, 2015 – Personal possession of limited amounts of commercial marijuana is allowed for those 21 or older.
- October 1, 2015 – Sales of commercial marijuana from medical marijuana dispensaries begin, unless a city has enacted an ordinance prohibiting early sales pursuant to SB 460 § 2(3).
- December 24, 2015 – City councils that are eligible to adopt a prohibition on marijuana activities without a voter referral must have adopted the prohibition by this date.
- January 1, 2016 – Most amendments to Measure 91 go into effect. In addition, after this date, medical marijuana growers may apply for an OLCC license to grow commercial marijuana at the same site.

- January 4, 2016 – The OLCC must approve or deny commercial license applications as soon as practicable after this date. (HB 3400, Section 171). In addition, medical marijuana dispensaries engaging in early sales of commercial marijuana must begin collecting a 25 percent state tax on those sales.
- March 1, 2016 – Most amendments to the OMMA go into effect.
- November 8, 2016 – Next statewide general election. Cities may refer measures on prohibition of marijuana activities and measures on local taxes at this election.
- December 31, 2016 – Early sales of commercial marijuana from medical marijuana dispensaries end.

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ATTACHMENT 1

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ATTACHMENT 1

2015 Marijuana Legislation: What Local Governments Need to Know

Bills

- HB 3400: Omnibus bill that amended the Oregon Medical Marijuana Act and the Measure 91
- HB 2041: Revised the state tax structure for commercial marijuana
- SB 460: Authorized early sales of commercial marijuana by medical marijuana dispensaries
- SB 844: Miscellaneous provisions

Home Rule

Home rule is the power of a local government to set up its own system of governance and gives that local government the authority to adopt ordinances without having to obtain permission from the state. City governments in Oregon derive home rule authority through the voters' adoption of a home rule charter as provided for in the Oregon Constitution. A home rule charter operates like a state constitution in that it vests all government power in the governing body of a municipality, except as expressly stated in that charter, or preempted by state or federal law. Where the Legislature's intent to preempt local governments is not express and where the local and state law can operate concurrently, there is no preemption. As a result, generally a negative inference that can be drawn from a statute is insufficient to preempt a local government's home rule authority.

Although this document summarizes the provisions of HB 3400A, cities may be able to impose regulations in addition to those authorized under HB 3400A under their home rule authority.

Local Government Ban (effective June 30, 2015)

What Cities Can Ban (HB 3400A §§ 133(2), 134(1))

There are 7 types of marijuana activities regulated under HB 3400A. Cities can ban any of the following 6 marijuana activities:

- Medical marijuana processors (preparing edibles, skin and hair products, concentrates, and extracts)
- Medical marijuana dispensaries
- Commercial marijuana processors (preparing edibles, skin and hair products, concentrates, and extracts)
- Commercial marijuana producers (growers)
- Commercial marijuana wholesalers
- Commercial marijuana retailers

Cities cannot ban medical marijuana grow sites. However, the law places limits on the number of plants and the amount of marijuana that can be located at any one medical marijuana grow site (HB 3400A §§ 82, 82a):

- *General Rule:* 12 mature plants per grow site in residential zones; 48 mature plants per grow site in all other zones.

- *Grandfathering*: If all growers at the site had registered with the state by January 1, 2015, the grow site is limited to the number of plants at the grow site as of December 31, 2015, not to exceed 24 mature plants per grow site in residential zones and 96 mature plants per grow site in other zones
- *Usable marijuana*: A grower may possess the amount of usable marijuana harvested from the plants not to exceed 12 pounds per plant for outdoor grow sites and 6 pounds per plant for indoor grow sites.

How Cities Can Ban

Under HB 3400A, there are two avenues for cities to ban marijuana activities, but one of those avenues is available only to certain cities and only during a limited time period.

Option 1: Voter Referral (HB 3400A § 134)

All cities have the option of banning any of the marijuana activities listed above through the following voter referral process:

- The city council adopts an ordinance that prohibits any of the 6 marijuana activities listed above.
- The city council provides the text of the ordinance to the Oregon Health Authority (if prohibiting medical marijuana activities) and/or the Oregon Liquor Control Commission (if prohibiting commercial marijuana activities).
- The OHA and OLCC will stop registering and licensing the prohibited activities until the next statewide general election.
- The city council refers the ordinance to the voters at a statewide general election (November elections in even-numbered years).

Option 2: Ban Adopted by the City Council (HB 3400A § 133)

- A city council can adopt a ban on any of the 6 marijuana activities listed above by enacting an ordinance only if the following conditions are met:
 - The city is located in Baker, Crook, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, or Wheeler County;¹ AND
 - The city council adopts the ordinance by December 24, 2015 (180 days after the effective date of the legislation)
- The city council must provide the text of the ordinance to the Oregon Health Authority (if prohibiting medical marijuana activities) and/or the Oregon Liquor Control Commission (if prohibiting commercial marijuana activities).
- The OHA and OLCC will stop registering and licensing the prohibited activities.

Effect on Existing Medical Marijuana Processors & Dispensaries (HB 3400 §§ 133(6), (7), 134(6), (7), 135)

- Dispensaries registered with the state by the time the city adopts a prohibition ordinance, or that had applied to be registered by July 1, 2015, are not subject to the prohibition if they have successfully completed a city or county land use application process.

¹ HB 3400A allows a city council ban for cities located in counties that voted against Measure 91 by 55 percent or more.

- Medical marijuana processors registered with the state by the time the city adopts the prohibition ordinance are not subject to the prohibition if they have successfully completed a city or county land use application process.

Tax Implications (HB 3400A §§ 133(5), 134(5); HB 2041 §14(4))

- *Local Tax:* A city that adopts an ordinance prohibiting marijuana activities in its jurisdiction may not impose a local tax on marijuana. (HB 3400A §§ 133(5), 134(5))
- *State Tax:* A city that adopts an ordinance prohibiting marijuana activities is not eligible to receive state marijuana tax revenues from the 17 percent state tax imposed on commercial sales of marijuana. (HB 2041 § 14(4))
 - Collectively, cities will receive 10% of the state marijuana tax revenues, distributed as follows to cities that do not prohibit marijuana activities (HB 2041 § 14(2)):
 - Before July 1, 2017, distributed proportionately based on population
 - After July 1, 2017, distributed based on the number of licensees in the city, with 50 percent distributed based on the number of producer, processor, and wholesale licensees and 50 percent distributed based on the number of retail licensees

**Local Government Tax (HB 3400A § 34a)
(operative January 1, 2016)**

What Cities Can Tax

Under HB 3400A, cities may impose up to a 3 percent tax on sales made by those with commercial retail licenses.

How Cities Can Impose a Tax

Cities may adopt an ordinance imposing the tax, but it must be referred to the voters at the next statewide general election (meaning a November election in an even-numbered year). However, cities may not impose a local tax if they have prohibited marijuana activities through a local ban.

**Time, Place, and Manner Restrictions
(medical provisions operative March 1, 2016; commercial provisions operative January 1, 2016)²**

State Law Restrictions

- Medical and Commercial Marijuana Processors: Cannot locate in residential zones if processing marijuana extracts. (HB 3400 §§ 14(2)(c), 85(3)(a))
- Medical Marijuana Dispensaries and Commercial Retail Stores
 - Cannot locate in residential zones (HB 3400 §§ 16, 86)
 - Cannot locate within 1000 feet of certain public and private schools, unless the school is established after the marijuana facility (HB 3400 §§ 16, 17, 86, 86a)

² Although these provisions do not take effect immediately, some of these provisions are already part of existing state law. Cities should consult their city attorney when enacting time, place, and manner restrictions.

- Medical marijuana dispensaries cannot locate within 1000 feet of another dispensary (HB 3400A § 86)
- Medical marijuana dispensaries cannot locate at a grow site (HB 3400A § 86)
- Compliance with Zoning Requirements (HB 3400A § 34(4)): Before issuing any license, the OLCC must request a statement from the city that the requested license is for a location where the proposed use of the land is a permitted or conditional use. If the proposed use is prohibited in the zone, the OLCC may not issue a license. A city has 21 days to act on the OLCC's request, but when that 21 days starts to run varies:
 - If the use is allowed as an outright permitted use, 21 days from receipt of the request
 - If the use is a conditional use, 21 days from the final local permit approval.

What Cities Can Regulate (HB 3400A §§ 33, 89)

Although the League believes that the Legislature has not foreclosed other regulatory options, HB 3400A expressly provides that cities may impose reasonable regulations on the following:

- The hours of operation of retail licensees and medical marijuana grow sites, processing sites, and dispensaries
- The location of all 4 types of commercial licensees, as well as medical marijuana grow sites, processing sites, and dispensaries, except that a city may not impose more than a 1,000 foot buffer between retail licensees
- The manner of operation of all 4 types of commercial licensees, as well as medical marijuana processors and dispensaries
- The public's access to the premises of all 4 types of commercial licenses, as well as medical marijuana grow sites, processing sites, and dispensaries

The law also provides that time, place, and manner regulations imposed on commercial licensees must be consistent with city and county comprehensive plans, zoning ordinances, and public health and safety laws, which would be true of any ordinance imposed by a city.

Early Sales (SB 460)

(awaiting the Governor's signature – effective on passage)

How Early Sales Work (SB 460 §§ 2, 3)

- Starting October 1, 2015, medical marijuana dispensaries may sell the following amounts of commercial marijuana to a person who is 21 or older:
 - 1/4 ounce of dried marijuana leaves and flowers per person per day
 - 4 marijuana plants that are not flowering
 - Marijuana seeds
- Starting January 4, 2016, sales of commercial marijuana from medical marijuana dispensaries will be subject to a 25 percent sales tax (HB 2041 § 21a)
- Commercial sales from medical marijuana dispensaries are allowed through December 31, 2016

How Cities Can Ban Early Sales (SB 460 § 2(3))

A city can adopt an ordinance prohibiting the early sale of commercial marijuana from medical marijuana dispensaries within its jurisdiction. No voter referral is required.

Timeline

June 30, 2015 – HB 3400A becomes effective. However, many provisions of the law do not go into effect immediately.

July 1, 2015 – Personal possession of limited amounts of commercial marijuana is allowed for those 21 or older.

October 1, 2015 – Sales of commercial marijuana from medical marijuana dispensaries begin, unless a city has enacted an ordinance prohibiting early sales pursuant to SB 460 § 2(3).

December 24, 2015 – City councils that are eligible to adopt a prohibition on marijuana activities without a voter referral must have adopted the prohibition by this date.

January 1, 2016 – Most amendments to Measure 91 go into effect. In addition, after this date, medical marijuana growers may apply for an OLCC license to grow commercial marijuana at the same site.

January 4, 2016 – The OLCC must approve or deny commercial license applications as soon as practicable after this date. (HB 3400A § 171). In addition, medical marijuana dispensaries engaging in early sales of commercial marijuana must begin collecting a 25 percent state tax on those sales.

March 1, 2016 – Most amendments to the OMMA go into effect.

November 8, 2016 – Next statewide general election. Cities may refer measures on prohibition of marijuana activities and measures on local taxes at this election.

December 31, 2016 – Early sales of commercial marijuana from medical marijuana dispensaries end.

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ATTACHMENT 2

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ATTACHMENT 2

LEAGUE OF OREGON CITIES



**LOCAL GOVERNMENT
REGULATION OF
MARIJUANA IN
OREGON**

**REVISED
AUGUST 2015**



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Introduction and A Word of Caution

The League of Oregon Cities (League) has prepared this guide to assist cities in evaluating local needs and concerns regarding medical and recreational marijuana, so that city councils can find solutions that are in the best interests of their community. The League does not take a position on which choices a city council should make. The League's mission is to protect the home rule authority of cities to make local decisions and to assist city councils in implementing the decisions they make, whatever those decisions might be.

The League published the first edition of this guide in the spring of 2015. Its original focus was medical marijuana. In November 2014, Oregon voters adopted Measure 91, legalizing the growing, distribution, possession and use of marijuana in certain amounts for non-medical personal use. In 2015, the state Legislature made comprehensive reforms to Measure 91 and addressed issues of local control. Specifically, the Legislature adopted the following bills:

- HB 3400 (Or Laws 2015, ch 614), the omnibus bill that amends the Oregon Medical Marijuana Act (OMMA) and the Control and Regulation of Marijuana Act (also known as Measure 91, which the voters passed in November 2014 legalizing recreational marijuana use in Oregon);
- HB 2041 (Or Laws 2015, ch 699), which revises the state tax structure for recreational marijuana;
- SB 460 (Or Laws 2015, ch 784), which authorizes early sales of recreational marijuana by medical marijuana dispensaries; and
- SB 844 (awaiting governor's signature), which creates a marijuana task force, provides for expungement of certain offenses, adds a new qualifying debilitating medical condition, and allows certain hospice and residential facilities to be designated as an additional caregiver.

The law with regard to local government regulation of marijuana is complex because it involves the interplay of state and federal law, and the law continues to evolve. At press time, there were several court cases pending regarding the legal authority of local governments to regulate, up to and including prohibiting, the operation of medical marijuana facilities. The League will continue to update its members as the law in this area changes.

This guide is not a substitute for legal advice. City councils considering taxing, regulating or prohibiting marijuana facilities should not rely solely on this guide or the resources contained within it. Any city council considering any form of regulation of marijuana should consult with its city attorney regarding the advantages, disadvantages, risks and limitations of any given approach. Legal counsel can also assist a city in preparing an ordinance that is consistent with existing ordinances and with a city's charter, and advise on what process is needed to adopt the ordinance.

With those changes, the League has prepared this second edition of the guide, adding sections relating to the regulation of recreational marijuana. This guide begins by providing an overview of the source of local government authority—Oregon’s constitutional home rule provisions. The guide then provides a brief explanation of the status of marijuana under federal law, as well as a summary of Oregon’s marijuana laws, before turning to a discussion of local control and options available for local governments. The guide concludes with sample ordinances to use as a starting point if a city decides it wants to tax, regulate or prohibit marijuana facilities.

The sample ordinance provisions included in this guide are intended to be a starting point, not an ending point, for any jurisdiction considering taxing, regulating or prohibiting marijuana facilities.

Home Rule in Oregon

Any discussion of a city’s options for regulating anything that is also regulated by state law must begin with a discussion of the home rule provisions of the Oregon Constitution from which cities derive their legal authority. Home rule is the power of a local government to set up its own system of governance and gives that local government the authority to adopt local ordinances without having to obtain permission from the state.

The concept of home rule stands in contrast to a corollary principle known as Dillon’s Rule, which holds that municipal governments may engage only in activities expressly allowed by the state because municipal governments derive their authority and existence from the state.¹ Under Dillon’s Rule, if there is a reasonable doubt about whether a power has been conferred to a local government, then the power has not been conferred. Although many states follow Dillon’s Rule, Oregon does not.

Instead, a city government in Oregon derives its home rule authority through the adoption of a home rule charter by the voters of that community pursuant to Article XI, section 2, of the Oregon Constitution, which was added in 1906 by the people’s initiative. Article XI, section 2, provides, in part, that:

“The Legislative Assembly shall not enact, amend or repeal any charter or act of incorporation of any municipality, city or town. The legal voters of every city and town are hereby granted power to enact and amend their municipal charter, subject to the Constitution and criminal laws of the State of Oregon.”

A home rule charter operates like a state constitution in that it vests all government power in the governing body of a municipality, except as expressly stated in that charter, or preempted by state or federal law. According to the League’s records, all of Oregon’s 242 incorporated cities have adopted home rule charters.

¹ See John F. Dillon, 1 *The Law of Municipal Corporations* § 9b, 93 (2d ed 1873).

The leading court case interpreting Oregon’s home rule amendment is *La Grande/Astoria v. PERB*, 281 Or 137, 148-49, 576 P2d 1204, *aff’d on reh’g*, 284 Or 173, 586 P2d 765 (1978). In that case, the Oregon Supreme Court said that home rule municipalities have authority to enact substantive policies, even in an area also regulated by state statute, as long as the local enactment is not “incompatible” with state law, “either because both cannot operate concurrently or because the Legislature meant its law to be exclusive.” In addition, the court said that where there is a local enactment and state enactment on the same subject, the courts should attempt to harmonize state statutes and local regulations whenever possible.²

In a subsequent case, the Oregon Supreme Court directed courts to presume that the state did not intend to displace a local ordinance in the absence of an apparent and unambiguous intent to do so.³ Along the same lines, a local ordinance can operate concurrently with state law even if the local ordinance imposes greater or different requirements than the state law.⁴

Where the Legislature’s intent to preempt local governments is not express and where the local and state law can operate concurrently, there is no preemption. As such, the Oregon Supreme Court has concluded that generally a negative inference that can be drawn from a statute is insufficient to preempt a local government’s home rule authority.⁵ For example, where legislation “authorizes” a local government to regulate in a particular manner, a court will not read into that legislation that the specific action authorized is to the exclusion of other regulatory alternatives, unless the Legislature makes it clear that the authorized regulatory form is to be the exclusive means of regulating.

Federal Law

Marijuana remains a Schedule I controlled substance under the federal Controlled Substances Act (CSA). Schedule I substances are those for which the federal government has made the following findings:

² Criminal enactments are treated differently. Local criminal ordinances are presumed invalid, and that presumption cannot be overcome if the local enactment prohibits what state criminal law allows or allows what state criminal law prohibits. See *City of Portland v. Dollarhide*, 300 Or 490, 501, 714 P2d 220 (1986). Consequently, the Oregon Supreme Court’s case law is clear that a local government may not recriminalize conduct for which state law provides criminal immunity. See *City of Portland v. Jackson*, 316 Or 143, 147-48, 850 P2d 1093 (1993) (explaining how to determine whether a state law permits what an ordinance prohibits, including where the Legislature expressly permits specified conduct).

³ See, e.g., *State ex rel Haley v. City of Troutdale*, 281 Or 203, 210-11, 576 P2d 1238 (1978) (finding no manifest legislative intent to preempt local provisions that supplemented the state building code with more stringent restrictions).

⁴ See *Rogue Valley Sewer Services v. City of Phoenix*, 357 Or 437, 454-55, ___ P3d ___ (2015); see also *Thunderbird Mobile Club v. City of Wilsonville*, 234 Or App 457, 474, 228 P3d 650, *rev den*, 348 Or 524 (2010) (“A local ordinance is not incompatible with state law simply because it imposes greater requirements than does the state, nor because the ordinance and state law deal with different aspects of the same subject.” (internal quotations omitted)).

⁵ *Rogue Valley Sewer Services*, 357 Or at 453-55 (concluding that explicit authorization for cities to regulate certain utilities did not, by negative implication, create a broad preemption of the field of utility regulation); *Gunderson, LLC v. City of Portland*, 352 Or 648, 662, 290 P3d 803 (2012) (explaining that even if a preemption based on a negative inference is plausible, if it is not the only inference that is plausible, it is “insufficient to constitute the unambiguous expression of preemptive intention” required under home rule cases).

- The drug or other substance has a high potential for abuse;
- The drug or other substance has no currently accepted medical use in treatment in the United States; and
- There is a lack of accepted safety for use of the drug or other substance under medical supervision.

Oregon's laws on medical and recreational marijuana do not, and cannot, provide immunity from federal prosecution. Consequently, state law does not protect marijuana plants from being seized or people from being prosecuted if the federal government chooses to take action under the CSA against those using marijuana in compliance with state law. Similarly, cities cannot provide immunity from federal prosecution.

An Overview of Oregon's Marijuana Laws

Oregon Medical Marijuana Act

Oregon has had a medical marijuana program since 1998, when voters approved Ballot Measure 67, the Oregon Medical Marijuana Act (OMMA) (codified at ORS 475.300 – ORS 475.346). Since that time, the Legislature has amended the OMMA on a number of occasions. Generally, under the OMMA, a person suffering from a qualifying debilitating health condition must get a written statement from a physician that the medical use of marijuana may mitigate the symptoms or effects of that condition. The person may then obtain a medical marijuana card from the Oregon Health Authority, which is the agency charged with regulating medical marijuana. The patient may designate a caregiver and a grower if the patient decides not to grow his or her own marijuana, each of whom may also get a medical marijuana card. Patients, caregivers and growers with medical marijuana cards, who act in compliance with the OMMA, are immune from state criminal prosecution for any criminal offense in which possession, delivery or manufacture of marijuana is an element. Those without medical marijuana cards may also claim immunity from state criminal prosecution if they are in compliance with the OMMA and, within 12 months prior to the arrest at issue, had received a diagnosis of a debilitating medical condition for which a physician had advised medical marijuana could mitigate the symptoms or effects.

The OMMA also provides protection from state criminal prosecution for medical marijuana processors and medical marijuana dispensaries acting in compliance with the law. Although the OMMA did not originally envision dispensaries, in 2013 the Legislature created a system for state-registered facilities to lawfully transfer marijuana between growers and patients or caregivers. In its original form, the dispensary system failed to address many local government concerns, some of which the Legislature addressed in HB 3400 (2015).

HB 3400 amends the OMMA in a number of ways, including limiting the number of plants at a medical marijuana grow site; allowing medical marijuana growers to possess the amount of usable marijuana harvested from their mature plants, within certain limits; allowing medical marijuana growers to apply for a recreational grow license; changing the amount which a patient

may reimburse his or her grower; adding a new registration category for medical marijuana processors; adding testing, labeling, inspection and reporting requirements; and changing and adding limitations on where dispensaries and processors can locate.

Recreational Marijuana

In November 2014, Oregon voters approved Ballot Measure 91, which decriminalized the personal growing and use of certain amounts of recreational marijuana by persons 21 years of age or older. Measure 91 also designated the Oregon Liquor Control Commission (OLCC) as the agency charged with licensing and regulating the growing, processing and sale of recreational marijuana. In particular, the OLCC was directed to administer a license program for producers, processors, wholesalers and retailers, and under that program, a person may hold more than one type of license.

HB 3400 preserves the general structure of Measure 91, but also makes important changes, including: allowing for personal making, processing or storing of up to 16 ounces of homemade marijuana concentrates; adding a requirement that those who work for recreational marijuana retailers hold a handlers permit; directing the OLCC to develop and maintain a seed-to-sale tracking system; directing the OLCC to adopt restrictions on the size of recreational marijuana grows; adding testing, labeling, inspection and reporting requirements for licensees; and changing and adding certain land use standards as they relate to marijuana.

Taxation of Recreational Marijuana

Originally under Measure 91, the state tax on recreational marijuana would have been imposed on growers at a rate of \$35 per ounce of marijuana flowers, \$10 per ounce of marijuana leaves, and \$5 per immature marijuana plant. Under HB 2041 (2015), the Legislature revised the state tax structure to impose a 17 percent tax on the retail sale of marijuana, to be collected by marijuana retailers. Early sales of recreational marijuana from medical marijuana dispensaries, discussed below, will be taxed at a higher rate. Starting January 4, 2016, early sales of recreational marijuana from medical marijuana dispensaries will be taxed at a rate of 25 percent.

As was the case under Measure 91, 10 percent of the state tax will be transferred to cities to “assist local law enforcement in performing its duties” under Measure 91.⁶ That 10 percent will be distributed using different metrics before and after July 1, 2017. Before July 1, 2017, tax revenues will be distributed proportionately to all Oregon cities based on their population. After July 1, 2017, those revenues will be distributed proportionately based on the number of licenses issued for premises located in each city. Fifty percent of revenues will be distributed based on the number of production, processor and wholesale licenses issued in the city, and the other 50 percent will be distributed based on the number of retail licenses issued in the city. However,

⁶ The remaining tax revenues will be distributed as follows: 40 percent to the Common School Fund; 20 percent to the Mental Health Alcoholism and Drug Services Account; 15 percent to the State Police Account; and 10 percent to counties.

under HB 2041, if a city adopts an ordinance prohibiting the establishment of any registered or licensed marijuana activities, the city will not be eligible to receive state marijuana tax revenues.

HB 3400 preempts local governments from imposing more than a 3 percent tax on the production, processing or sale of recreational marijuana by a retail licensee.

Early Sales of Recreational Marijuana

As of July 1, 2015, people 21 years of age and older may possess limited amounts of recreational marijuana under state law. However, the OLCC does not expect to issue licenses for the retail sale of recreational marijuana until sometime in 2016. To allow the OLCC time to implement its licensing system, while also providing an avenue for people to purchase recreational marijuana in compliance with state law, the Legislature authorized medical marijuana dispensaries to sell limited quantities of recreational marijuana.

In particular, starting October 1, 2015, medical marijuana dispensaries will be able to sell the following to a person who is 21 or older and presents proof of age:

- One quarter of one ounce of dried marijuana leaves and flowers per person per day;
- Four marijuana plants that are not flowering; and
- Marijuana seeds.

Sales of recreational marijuana from medical dispensaries currently are set to end on December 31, 2016. At that time, recreational retail facilities likely will be operating. In the meantime, cities can opt out of early sales by ordinance.

Local Government Options for Regulation of Marijuana

Any city wanting to regulate or prohibit marijuana activities should work closely with its legal counsel to survey existing state law and local code, develop a means to implement and enforce any new ordinances, and then craft the necessary amendments to the city's code to accomplish the council's intent.

As set out in HB 3400 and under their home rule authority, cities have a number of options for regulating marijuana activities. Whether to regulate is a local choice. What follows is an overview of the options available to cities. However, before embarking on any form of regulation, cities should begin by examining the seven types of marijuana activities authorized by state statute and the restrictions state law (including administrative regulations adopted by the OLCC and OHA) places on each type of activity to determine whether a gap exists between what state law allows and what the community desires to further restrict.

Registration and Licenses

Under HB 3400, there are seven marijuana activities that require registration or a license from the state. This guide focuses on regulation of those activities. Although some cities may be interested in regulating individual conduct involving personal growing, possession, and use of marijuana, those regulations are beyond the scope of this guide.

Oregon's Seven Regulated Marijuana Activities

Marijuana Type	Grow	Make Products	Wholesale	Transfer to User
Medical <i>OHA Registration</i>	Marijuana Grow Site: Location for planting, cultivating, growing, trimming, or harvesting marijuana or drying marijuana leaves or flowers <i>Register under ORS 475.304</i>	Marijuana Processing Site: Location for compounding or converting marijuana into medical products, concentrates or extracts <i>Register under section 85 of HB 3400</i>	None	Medical Marijuana Dispensary: Transfer usable marijuana, immature marijuana plants, seed, and medical products, concentrates and extracts to patients and caregivers <i>Register under ORS 475.314</i>
Recreational <i>OLCC License</i>	Producers: Manufacture, plant, cultivate, grow, harvest <i>Obtain license under section 12 of HB 3400</i>	Processors: Process, compound or convert marijuana into products, concentrates or extracts, but does not include packaging or labeling <i>Obtain license under section 14 of HB 3400</i>	Wholesalers: Purchase marijuana items for resale to a person other than a consumer <i>Obtain license under section 15 of HB 3400</i>	Retailers: Sell marijuana items to a consumer <i>Obtain license under section 16 of HB 3400</i> *Certain employees must obtain an OLCC handlers permit under section 19 of HB 3400

State Restrictions on the Location of Medical and Recreational Marijuana Activities

Before regulating or prohibiting state-registered or licensed marijuana activities, cities should examine the restrictions in state law. It is important to know about any state restrictions that create a regulatory “floor.” In other words, although the courts generally have upheld a city’s authority to impose more stringent restrictions than those described in state law, a city likely cannot impose restrictions that are more lenient than those described in state law. So, for

example, where state law requires a 1,000-foot buffer between medical marijuana dispensaries, a city could not allow dispensaries to locate within 500 feet of each other. Moreover, some cities may determine that state regulation of marijuana activities is sufficient and that local regulation is therefore unnecessary.

For those cities interested in prohibiting any of the marijuana activities listed above, it is important to examine the state restrictions because, particularly in smaller communities, those restrictions effectively may preclude a person from becoming registered with or licensed by the state to engage in marijuana activities.

Medical Grow Sites and Recreational Producers

HB 3400 does not restrict where medical marijuana grow sites or recreational marijuana producers can locate. However, it does place more stringent limitations on the number of plants that a medical marijuana grower can grow in residential zones and directs the OLCC to adopt rules restricting the size of recreational marijuana grow canopies.

Generally, a medical marijuana grow site may have up to 12 mature plants if it is located in a residential zone, and up to 48 mature plants if it is located in any other zone. However, there are exceptions for certain existing grow sites. If all growers at a site had registered with the state by January 1, 2015, the grow site is limited to the number of plants that were at the grow site as of December 31, 2015, not to exceed 24 mature plants per grow site in a residential zone and 96 mature plants per grow site in all other zones. A grower loses the right to claim those exceptions, however, if the grower's registration is suspended or revoked.

Medical Processing Sites and Recreational Processors

Processors that make marijuana extracts may not be located in an area zoned for residential use.

Medical Marijuana Dispensaries

Prior to HB 3400, state law provided that dispensaries had to be located in areas zoned for commercial, industrial, mixed use or agricultural land. Some dispensary owners argued that, as a result, local governments had to allow dispensaries to locate in those zones. The Legislature has now revised that provision to remove the list of allowable zones and replace it with a restriction: dispensaries may not be located in residential zones.

Prior to HB 3400, dispensaries could not locate within 1,000 feet of a public or private elementary, secondary or career school attended primarily by minors. The Legislature has now revised that restriction so that a dispensary may not locate within 1,000 feet of a public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or secondary school, teaching children as described in

ORS 339.030(1)(a).⁷ As a practical matter, that means that dispensaries cannot locate within 1,000 feet of most public and private elementary, middle and high schools. However, if a school is established within 1,000 feet of an existing dispensary, the dispensary may remain where it is unless the OHA revokes its registration.

In addition, the Legislature retained the requirement that dispensaries may not be located at the same address as a grow site and may not be located within 1,000 feet of another dispensary.

Recreational Wholesalers and Retailers

Wholesale and retail licensees may not locate in an area that is zoned exclusively for residential use. The same requirements that apply to medical marijuana dispensaries regarding their proximity to schools apply to retail licensees. As a practical matter, a retail licensee may not locate within 1,000 feet of most public and private elementary, middle and high schools. However, if a school is established within 1,000 feet of an existing retail licensee, the licensee may remain where it is unless the OLCC revokes its license.

Local Tax

The OMMA was silent on local authority to tax, meaning that local governments retained their home rule authority to tax medical marijuana. Measure 91, on the other hand, attempted to preempt local government authority to tax recreational marijuana, though there were significant questions regarding the effect and scope of that purported preemption.

Under HB 3400, the Legislature has vested authority to “impose a tax or fee on the production, processing or sale of marijuana items” solely in the Legislative Assembly, except as provided by law. The Legislature has also provided that a city may not “adopt or enact ordinances imposing a tax or fee on the production, processing or sale of marijuana items,” except as provided by law. HB 3400 goes on to provide that cities may adopt an ordinance, which must be referred to the voters, imposing a tax or fee of up to 3 percent on the sale of marijuana items by a retail licensee. The ordinance must be referred to the voters in a statewide general election, meaning an election in November of an even-numbered year. However, if a city has adopted an ordinance

⁷ ORS 339.020 provides, “Except as provided in ORS 339.030:

(1) Every person having control of a child between the ages of 7 and 18 years who has not completed the 12th grade is required to send the child to, and maintain the child in, regular attendance at a public full-time school during the entire school term.

(2) If a person has control of a child five or six years of age and has enrolled the child in a public school, the person is required to send the child to, and maintain the child in, regular attendance at the public school while the child is enrolled in the public school.”

ORS 339.030(1)(a) provides, “In the following cases, children may not be required to attend public full-time schools: (a) Children being taught in a private or parochial school in the courses of study usually taught in grades 1 through 12 in the public schools and in attendance for a period equivalent to that required of children attending public schools in the 1994-1995 school year.”

prohibiting the establishment of any recreational marijuana licensees or any medical marijuana registrants in the city, the city may not impose a local tax under this provision of the legislation.

Although HB 3400 provides that cities may impose a tax on sales by retail licensees, it remains unclear whether a city can tax medical marijuana. In particular, cities should consult their attorney on whether the authority to impose a tax or fee on “the production, processing or sale of marijuana items,” vested solely in the Legislature except as provided in HB 3400, includes the authority to tax medical marijuana.

For those cities that enacted taxes on medical or recreational marijuana prior to the Legislature’s adoption of HB 3400, the status of those taxes remains an open question. Arguably, cities that had “adopt[ed] or enact[ed]” taxes prior to the effective date of HB 3400 are grandfathered in under the law. However, the issue is not free from doubt, and cities that decide to collect on pre-HB 3400 taxes should be prepared to defend their ability to do so against legal challenge. Consequently, cities that plan to continue to collect taxes imposed prior to the passage of HB 3400 should work closely with their city attorney to discuss the implications and risks of that approach.

Ban on Early Sales

Starting October 1, 2015, medical marijuana dispensaries may begin selling limited quantities of recreational marijuana. Cities may adopt an ordinance prohibiting those early sales without referring the ordinance to voters and likely without tax implications. Although a city adopting an ordinance “prohibiting the establishment” of certain marijuana activities is not eligible to receive state marijuana tax revenues, an ordinance prohibiting early sales would merely limit the activities at an existing medical marijuana dispensary. As a result, cities would likely remain eligible to receive state tax revenues.

However, cities likely cannot impose a local tax on early sales. Under HB 3400, cities may not adopt or enact ordinances imposing a tax or fee on the production, processing or sale of marijuana items, except as provided in that legislation. HB 3400 further stipulates that cities may refer an ordinance to voters imposing a tax of up to 3 percent on sales by a person that holds a retail license issued by the OLCC. Because early sales of recreational marijuana will be made by medical marijuana dispensaries, and not by a retail licensee, a city likely is preempted from imposing a tax on early sales of recreational marijuana. However, cities interested in imposing a local tax on early sales should consult their city attorney.

Ban on State-Registered and Licensed Activities

Under HB 3400, cities may prohibit within the city the operation of recreational marijuana producers, processors, wholesalers and retailers, as well as medical marijuana processors and medical marijuana dispensaries. HB 3400 is silent on whether a city can ban medical marijuana growers from operating in the city. However, HB 3400 does not indicate that the bill’s process for banning marijuana activities is the exclusive means to do so. Cities considering banning

medical marijuana grow sites should talk to their city attorney about whether they can do so under either home rule, federal preemption or both legal theories.

The method for imposing the ban under HB 3400 will depend on when the city imposes the ban and whether the city is located in a county that voted against Measure 91 by 55 percent or more.

Before December 24, 2015, cities located in counties that voted against Measure 91 by 55 percent or more (Baker, Crook, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa and Wheeler Counties) can enact a ban through council adoption of an ordinance prohibiting any of the six activities listed above. After that time, and for cities not located in those counties, the city council may adopt an ordinance banning any of the six activities listed above, but that ordinance must be referred to the voters at a statewide general election, meaning an election in November of an even-numbered year. Medical marijuana dispensaries and medical marijuana processors that have registered with the state by the time their city adopts a prohibition ordinance are not subject to the ban if they have successfully completed a city or county land use application process.

Under either procedure, as soon as the city council adopts the ordinance, it must submit it to the Oregon Health Authority (OHA) for medical bans and the Oregon Liquor Control Commission (OLCC) for recreational bans, and those agencies will stop registering and licensing the banned facilities. In other words, for cities using the referral process, the council's adoption of an ordinance acts as a moratorium on new facilities until the election occurs.

For cities using the referral process, it is also important to note that once the elections official files the referral with the county election office, the ballot measure is certified to the ballot. At that point, the restrictions on public employees engaging in political activity will apply. Consequently, cities should consult the Secretary of State and their city attorney to ensure that public employees are complying with state elections law in their communications about the pending measure.

In determining whether to prohibit any of the marijuana activities registered or licensed by the state, cities may want to consider the tax implications. Cities that enact a prohibition on any marijuana activity likely will not be eligible to receive state marijuana tax revenues or impose a local tax, even if the city bans only certain activities and allows others.

It is also important to note that HB 3400 does not provide an avenue for cities to ban the personal use and growing of marijuana. As a result, cities interested in enacting such a ban should consult with their city attorney to discuss whether the city can do so under either home rule, federal preemption or both legal theories.

Business License Ordinance

Although HB 3400 provides an avenue for cities to ban certain marijuana activities, nothing in the legislation makes that the exclusive means for prohibiting marijuana activities. As a result, some cities may not need to go through the procedures outlined in HB 3400 to ban marijuana

activities because they may already have laws in place that create an effective ban. However, cities relying on other avenues to ban should be prepared to defend their authority to do so.

A number of cities have imposed a ban through a local business license ordinance that provides that it is unlawful for any person to operate a business within the city without a business license, and further provides that the city will not issue a business license to any person operating a business that violates local, state or federal law. Indeed, cities that have a business license ordinance in place should review their existing codes to determine if such wording already exists. Additionally, whether adopting a new business license program or amending an existing one to provide that the city will not issue a business license to any person operating a business that violates local, state or federal law, a city should work with its legal counsel to ensure that its business license ordinance includes an enforcement mechanism to address a situation in which a person is operating a business without a business license.

In addition, cities that decide to enforce a business license ordinance instead of adopting a ban under HB 3400 should consult their city attorney regarding *City of Cave Junction v. State of Oregon* (Josephine County Circuit Court Case #14CV0588; Court of Appeals Case #A158118) and *Providing All Patients Access v. City of Cave Junction* (Josephine County Circuit Court Case #14CV1246, Court of Appeals Case #A160044). At issue in those cases is whether the city of Cave Junction may enforce its business license ordinance, which prohibits issuance of a business license to a business operating in violation of local, state or federal law, to effectively prohibit medical marijuana dispensaries from operating. Two trial courts in Oregon have upheld the city's business license ordinance against challenges that it has been preempted by the OMMA (prior to its amendment by HB 3400). Both of those cases currently are on appeal before the Oregon Court of Appeals.

Development Code

Cities that desire to impose a prohibition on marijuana operations could also include in their development codes a provision stating that the city will not issue a development permit to any person operating a business that violates local, state or federal law. If not already defined, or if defined narrowly, the city will want to amend its code to provide that a development permit includes any permit needed to develop, improve or occupy land including, but not limited to, public works permits, building permits or occupancy permits.

Land Use Code

As noted above, state law places restrictions on where certain marijuana activities can locate, including prohibiting certain processors, dispensaries and retail establishments from locating in residential zones. In addition, under HB 3400, a land use compatibility statement is required as part of the OLCC's licensing process for all recreational licensees. In particular, before issuing a producer, processor, wholesaler or retailer license, the OLCC must request a statement from the city that the requested license is for a location where the proposed use of the land is a permitted or conditional use. If the proposed use is prohibited in the zone, the OLCC may not issue a license. A city has 21 days to act on the OLCC's request, but when that 21 days begins varies.

If the land use is allowed as an outright permitted use, the city has 21 days from receipt of the request; if the land use is a conditional use, the city has 21 days from the final local permit approval. The city's response to the OLCC is not a land use decision. In addition to those state requirements, cities can impose their own more stringent land use requirements and restrictions.

Moreover, cities that desire to prohibit marijuana facilities altogether might also do so through amendments to their land use codes. Before considering this option, cities should work with their legal counsel to first determine if the wording of their zoning codes already prohibits marijuana operations, and if not, to identify the appropriate land use procedures and the amount of time it would take to comply with them. If the wording in a city's zoning codes does not prohibit marijuana operations, the city has different options. One option is to add wording such as "an allowed use is one that does not violate local, state or federal law" to the city's zoning code. Cities that adopt a prohibition that references federal law would then rely on existing mechanisms in their ordinances for addressing zoning violations.⁸

Time, Place and Manner Regulations

HB 3400 provides that local governments may impose reasonable regulations on the time, place and manner of operation of marijuana facilities. The League believes that, under the home rule provisions of the Oregon Constitution, local governments do not need legislative authorization to impose time, place and manner restrictions, and that the Legislature's decision to expressly confirm local authority to impose certain restrictions does not foreclose cities from imposing other restrictions not described in state law.

HB 3400 provides that cities may regulate marijuana facilities by imposing reasonable restrictions on:

- The hours of operation of recreational marijuana retailers and medical marijuana grow sites, processing sites and dispensaries;
- The location of recreational marijuana producers, processors, wholesalers and retailers, as well as medical marijuana grow sites, processing sites and dispensaries, except that a city may not impose more than a 1,000-foot buffer between recreational marijuana retailers;
- The manner of operation of recreational marijuana producers, processors, wholesalers and retailers, as well as medical marijuana processors and dispensaries; and

⁸ Under existing law, the League believes it is clear that a city may enforce civil regulations of general applicability (such as zoning codes, business licenses and the like) through the imposition of civil penalties. Although a city likely cannot directly recriminalize conduct allowed under state criminal law, it is a different legal question whether a city may impose criminal penalties for violating a requirement of general applicability when the conduct at issue is otherwise immune from prosecution under state law (i.e. whether a city may impose criminal penalties for operation of a medical marijuana dispensary in violation of a city's land use code). *Cf. State v. Babson*, 355 Or 383, 326 P3d 559 (2014) (explaining that generally applicable, facially neutral law, such as a rule prohibiting use of public property during certain hours, may be valid even if it burdens expressive conduct otherwise protected under Article I, section 8, of the Oregon Constitution). Consequently, a city should work closely with its city attorney before imposing criminal penalties against a person operating a medical marijuana facility in violation of a local civil code, such as a zoning, business license or development code.

- The public's access to the premises of recreational marijuana producers, processors, wholesalers and retailers, as well as medical marijuana grow sites, processing sites and dispensaries.

The law also provides that time, place and manner regulations imposed on recreational licenses must be consistent with city and county comprehensive plans, zoning ordinances, and public health and safety laws, which would be true of any ordinance imposed by a city.

Although the law does not provide for regulation of the hours of operation for recreational producers, processors or wholesalers, or for regulation of the manner of operation of medical marijuana grow sites, the League believes that cities could regulate those aspects of operation under their home rule authority. However, a city considering regulating those activities should consult with their legal counsel on the risks of litigation and the likelihood of prevailing.

What regulations a city ultimately adopts will depend on community wants and needs, as well as on the rules adopted by the OHA and the OLCC. HB 3400 authorizes, and in some cases requires, those agencies to adopt rules implementing the law, and those rules may address many of the issues concerning local governments. As a result, although cities may want to begin considering the types of regulations that they want to impose, cities should be aware that local needs may change with experience and as new administrative rules go into effect.

Appendix A

Early Sales Opt Out

APPENDIX A

Early Sales Opt Out

As of July 1, 2015, people aged 21 and older may possess certain amounts of recreational marijuana under Oregon law. However, the Oregon Liquor Control Commission, which is the state agency charged with licensing the retail sale of recreational marijuana, does not expect to begin licensing retail stores until sometime in 2016. To address the gap between the date when people can possess recreational marijuana under Oregon law and the date when people will be able to purchase recreational marijuana from a retail store, the Legislature enacted Senate Bill 460, which allows for limited sales of recreational marijuana from medical marijuana dispensaries starting October 1, 2015. Under SB 460, cities can adopt an ordinance prohibiting those limited recreational sales. Although not required by the statute, the League recommends the city submit its early sales opt out ordinance to Oregon Health Authority so that they may aid in any enforcement of the ban.

AN ORDINANCE OF THE CITY OF {NAME} DECLARING A BAN ON THE SALE OF
RECREATIONAL MARIJUANA BY MEDICAL MARIJUANA DISPENSARIES, AND
DECLARING AN EMERGENCY

Whereas, the Oregon Medical Marijuana Act created a system for the transfer of medical marijuana between growers and patients and caregivers through medical marijuana dispensaries;

Whereas, the voters adopted Measure 91 in November 2014, which provides criminal immunity for people aged 21 or older who possess certain amounts of marijuana and directs the Oregon Liquor Control Commission to license the retail sale of marijuana;

Whereas, the Oregon Liquor Control Commission has not yet licensed the retail sale of recreational marijuana;

Whereas, the Legislature enacted Senate Bill 460 (2015) to allow medical marijuana dispensaries to sell limited marijuana retail product starting October 1, 2015;

Whereas, Senate Bill 460 (2015) provides that a city may adopt ordinances prohibiting the sale of limited marijuana retail product from medical marijuana dispensaries;

Whereas, the City Council wants to prohibit the sale of marijuana retail products from medical marijuana dispensaries in the city to protect and benefit the public health, safety and welfare of existing and future residents and businesses in the city;

NOW THEREFORE, BASED ON THE FOREGOING, THE CITY OF {NAME} ORDAINS
AS FOLLOWS:

BAN DECLARED. The City of {Name} hereby prohibits the sale of limited marijuana retail product in any area subject to the jurisdiction of City of {Name} as described in section 2 of Senate Bill 460 (2015).

DURATION OF BAN. The ban imposed by this ordinance will be effective until December 31, 2016, or until the Legislature ends sales of limited marijuana retail product by medical marijuana dispensaries, whichever comes later.

ENFORCEMENT. {Cities need to think about how to enforce a ban, with mechanisms such as revocation or suspension of a business license, revocation of a marijuana activities registration, injunction, or civil penalty. Cities that consider imposing a criminal penalty should work closely with their city attorney to assess their ability to do so under SB 460 and HB 3400.}

EMERGENCY. 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 be in full force and effect on {date/passage}.

This document is not a substitute for legal advice. City councils considering prohibiting or taxing any marijuana facilities should not rely solely on this sample. Any city council considering any form of regulation of marijuana should consult with its city attorney regarding the advantages, disadvantages, risks and limitations of any given approach.

Legal counsel can also assist a city in preparing an ordinance that is consistent with local procedures, existing ordinances and a city's charter, and advise on what process is needed to adopt the ordinance.

The sample provided is intended to be a starting point, not an ending point, for any jurisdiction considering prohibiting or taxing marijuana.

Appendix B

Council Opt Out

APPENDIX B

Council Opt Out

Note: This option is available only for certain cities and only until December 24, 2015.

Under HB 3400, cities may prohibit within the city the establishment of recreational marijuana producers, processors, wholesalers and retailers, as well as medical marijuana processors and medical marijuana dispensaries. Medical marijuana dispensaries are grandfathered and are able to operate despite a ban if they: (1) have applied to be registered by July 1, 2015 or were registered prior to the date on which the ordinance is adopted, and (2) successfully completed the land use application process (if applicable). Medical marijuana processors are grandfathered and are able to operate despite a ban if they: (1) were registered under ORS 475.300 to 475.346 and were processing usable marijuana on or before July 1, 2015 or (2) are registered under section 85 of HB 3400 prior to the date on which the ordinance is adopted by the governing body, and (3) have successfully completed a local land use application process (if applicable).

HB 3400 is silent on whether a city can ban medical marijuana growers from operating, consequently, this model does not address the banning of medical marijuana growers. Cities interested in banning medical marijuana growers should consult with their city attorney about whether they could do so under the city's home rule authority and/or federal legal theories.

Cities located in counties that voted against Measure 91 by 55 percent or more (Baker, Crook, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa and Wheeler Counties) can enact a ban through council adoption of an ordinance prohibiting any of the six activities listed above. However, the city council must do so prior to December 24, 2015. After that date a ban can only be effectuated using the referral process set out in Appendix C.

After adopting a prohibition ordinance, the council must submit the ordinance to the Oregon Health Authority (if banning medical marijuana businesses) and/or the Oregon Liquor Control Commission (if banning recreational marijuana businesses) and those agencies will then stop registering and licensing the prohibited businesses. Each agency has a form for submitting the ordinances.

Cities that adopt an ordinance prohibiting the establishment of medical or recreational marijuana businesses are not eligible to receive a distribution of state marijuana tax revenues or to impose a local tax under section 34a of HB 3400.

AN ORDINANCE OF THE CITY OF {NAME} DECLARING A BAN ON {MEDICAL MARIJUANA PROCESSING SITES, MEDICAL MARIJUANA DISPENSARIES, RECREATIONAL MARIJUANA PRODUCERS, RECREATIONAL MARIJUANA PROCESSORS, RECREATIONAL MARIJUANA WHOLESALERS, AND/OR RECREATIONAL MARIJUANA RETAILERS} AND DECLARING AN EMERGENCY

Whereas, the Oregon Medical Marijuana Act, as amended by House Bill 3400 (2015) provides that the Oregon Health Authority will register medical marijuana processing sites and medical marijuana dispensaries;

Whereas, Measure 91, which the voters adopted in November 2014, directs the Oregon Liquor Control Commission to license the production, processing, wholesale, and retail sale of recreational marijuana;

Whereas, section 133 of HB 3400 provides that a qualifying city may prohibit, within its jurisdiction, the establishment of certain state-registered and state-licensed marijuana businesses by adopting an ordinance within 180 days of the effective date of HB 3400;⁹

Whereas, {City} is a “qualifying city” as defined in section 133 of House Bill 3400 (2015) because {City} is located in a county in which not less than 55 percent of the votes cast in the county on Measure 91 in November 2014 were against the measure;

Whereas, the City Council wants to prohibit the operation of {type of marijuana activity} in the city to protect and benefit the public health, safety and welfare of existing and future residents and businesses;

Whereas, the City Council believes that the public benefits from prohibiting the operation of {type of marijuana activity} in the city outweigh the benefit the city would receive from state or local tax revenues;

NOW THEREFORE, BASED ON THE FOREGOING, THE CITY OF {NAME} ORDAINS AS FOLLOWS:

DEFINITIONS.

Marijuana means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

Marijuana processing site means an entity registered with the Oregon Health Authority to process marijuana.

Marijuana processor means an entity licensed by the Oregon Liquor Control Commission to process marijuana.

Marijuana producer means an entity licensed by the Oregon Liquor Control Commission to manufacture, plant, cultivate, grow or harvest marijuana.

Marijuana retailer means an entity licensed by the Oregon Liquor Control Commission to sell marijuana items to a consumer in this state.

Marijuana wholesaler means an entity licensed by the Oregon Liquor Control Commission to purchase items in this state for resale to a person other than a consumer.

⁹ Those counties include the following: Baker, Crook, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa and Wheeler.

Medical marijuana dispensary means an entity registered with the Oregon Health Authority to transfer marijuana.

BAN DECLARED. As provided in section 133 of House Bill 3400 (2015), the City of {Name} hereby prohibits the establishment of the following in the area subject to the jurisdiction of the city {select desired options from the list below}:

- (a) Marijuana processing sites;
- (b) Medical marijuana dispensaries;
- (c) Marijuana producers;
- (d) Marijuana processors;
- (e) Marijuana wholesalers;
- (f) Marijuana retailers.

EXCEPTION. The prohibition set out in this ordinance does not apply to a marijuana processing site or medical marijuana dispensary that meets the conditions set out in subsections 6 or 7 of section 133, section 136, or section 137 of House Bill 3400 (2015).

EMERGENCY. 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 be in full force and effect on {date/passage}.

This document is not a substitute for legal advice. City councils considering prohibiting or taxing any marijuana facilities should not rely solely on this sample. Any city council considering any form of regulation of marijuana should consult with its city attorney regarding the advantages, disadvantages, risks and limitations of any given approach.

Legal counsel can also assist a city in preparing an ordinance that is consistent with local procedures, existing ordinances and a city's charter, and advise on what process is needed to adopt the ordinance.

The sample provided is intended to be a starting point, not an ending point, for any jurisdiction considering prohibiting or taxing marijuana.

Appendix C

Opt Out by Voter Referral

APPENDIX C

Opt Out by Voter Referral

Cities that are not in a county that voted no on Measure 91 by 55 percent or more, or cities that desire to ban certain marijuana activities after December 24, 2015, may do so only by referral at a statewide general election, meaning an election in November of an even-numbered year. Cities should consult the Secretary of State's referral manual and work with the city recorder or similar official to determine the procedures necessary to refer an ordinance to the voters.

Once adopted, the city must submit the ordinance to the Oregon Health Authority (if banning medical marijuana businesses) and/or the Oregon Liquor Control Commission (if banning recreational marijuana businesses), and those agencies will then stop registering and licensing the prohibited businesses until the next statewide general election. In other words, for cities using the referral process, the council's adoption of an ordinance acts as a moratorium on new facilities until the election. Each agency has a form for submitting the ordinances.

Medical marijuana dispensaries are grandfathered and are able to operate despite a ban if they: (1) have applied to be registered by July 1, 2015 or were registered prior to the date on which the ordinance is adopted by the city council, and (2) successfully completed the land use application process (if applicable). Medical marijuana processors are grandfathered and are able to operate despite a ban if they: (1) were registered under ORS 475.300 to 475.346 and were processing usable marijuana on or before July 1, 2015 or (2) are registered under section 85 of HB 3400 prior to the date on which the ordinance is adopted by the governing body, and (3) have successfully completed a local land use application process (if applicable).

Cities that adopt an ordinance prohibiting the establishment of medical or recreational marijuana businesses are not eligible to receive a distribution of state marijuana tax revenues or to impose a local tax under section 34a of HB 3400.

In addition, it is important to note that once the elections official files the referral with the county election office, the ballot measure is certified to the ballot. At that point, the restrictions on public employees engaging in political activity will apply. Consequently, cities should consult the Secretary of State's manual *Restrictions on Political Campaigning by Public Employees* and their city attorney to ensure that public employees are complying with state elections law in their communications about the pending measure.

AN ORDINANCE OF THE CITY OF {NAME} DECLARING A BAN ON {MEDICAL MARIJUANA PROCESSING SITES, MEDICAL MARIJUANA DISPENSARIES, RECREATIONAL MARIJUANA PRODUCERS, RECREATIONAL MARIJUANA PROCESSORS, RECREATIONAL MARIJUANA WHOLESALERS, AND/OR RECREATIONAL MARIJUANA RETAILERS}; REFERRING ORDINANCE; AND DECLARING AN EMERGENCY

Whereas, the Oregon Medical Marijuana Act, as amended by House Bill 3400 (2015) provides that the Oregon Health Authority will register medical marijuana processing sites and medical marijuana dispensaries;

Whereas, Measure 91, which the voters adopted in November 2014, directs the Oregon Liquor Control Commission to license the production, processing, wholesale, and retail sale of recreational marijuana;

Whereas, section 134 of HB 3400 provides that a city council may adopt an ordinance to be referred to the electors of the city prohibiting the establishment of certain state-registered and state-licensed marijuana businesses in the area subject to the jurisdiction of the city;

Whereas, the city council wants to refer the question of whether to prohibit {recreational marijuana producers, processors, wholesalers, and/or retailers, as well as medical marijuana processors and/or medical marijuana dispensaries} to the voters of {City};

NOW THEREFORE, BASED ON THE FOREGOING, THE CITY OF {NAME} ORDAINS AS FOLLOWS:

DEFINITIONS.

Marijuana means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

Marijuana processing site means an entity registered with the Oregon Health Authority to process marijuana.

Marijuana processor means an entity licensed by the Oregon Liquor Control Commission to process marijuana.

Marijuana producer means an entity licensed by the Oregon Liquor Control Commission to manufacture, plant, cultivate, grow or harvest marijuana.

Marijuana retailer means an entity licensed by the Oregon Liquor Control Commission to sell marijuana items to a consumer in this state.

Marijuana wholesaler means an entity licensed by the Oregon Liquor Control Commission to purchase items in this state for resale to a person other than a consumer.

Medical marijuana dispensary means an entity registered with the Oregon Health Authority to transfer marijuana.

BAN DECLARED. As described in section 134 of House Bill 3400 (2015), the City of {Name} hereby prohibits the establishment {and operation}¹⁰ of the following in the area subject to the jurisdiction of the city {select desired options from the list below}:

- (a) Marijuana processing sites;

¹⁰ Include this wording if (1) there are existing recreational licensees operating within the city and (2) the city does not wish to grandfather in those activities.

- (b) Medical marijuana dispensaries;
- (c) Marijuana producers;
- (d) Marijuana processors;
- (e) Marijuana wholesalers;
- (f) Marijuana retailers.

EXCEPTION. The prohibition set out in this ordinance does not apply to a marijuana processing site or medical marijuana dispensary that meets the conditions set out in subsections 6 or 7 of section 134, section 136, or section 137 of House Bill 3400 (2015).

REFERRAL. This ordinance shall be referred to the electors of the city of {name} at the next statewide general election on {date – Tuesday, November 8, 2016 is the next statewide general election}.

EMERGENCY. 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 be in full force and effect on {date/passage}.

A RESOLUTION APPROVING REFERAL TO THE ELECTORS OF THE CITY OF {NAME}
 THE QUESTION OF BANNING {MEDICAL MARIJUANA PROCESSING SITES,
 MEDICAL MARIJUANA DISPENSARIES, RECREATIONAL MARIJUANA PRODUCERS,
 RECREATIONAL MARIJUANA PROCESSORS, RECREATIONAL MARIJUANA
 WHOLESALERS, AND/OR RECREATIONAL MARIJUANA RETAILERS} WITHIN THE
 CITY¹¹

Whereas, section 134 of HB 3400 provides that a city council may adopt an ordinance to be referred to the electors of the city prohibiting the establishment of certain state-registered and state-licensed marijuana businesses in the area subject to the jurisdiction of the city;

Whereas, the CITY OF {NAME} city council adopted Ordinance {number}, which prohibits the establishment of {list of marijuana activities} in the area subject to the jurisdiction of the city;

NOW, THEREFORE, THE CITY OF {NAME} RESOLVES AS FOLLOWS:

MEASURE. A measure election is hereby called for the purpose of submitting to the electors of the CITY OF {NAME} a measure prohibiting the establishment of certain marijuana activities in the area subject to the jurisdiction of the city, a copy of which is attached hereto as “Exhibit 1,” and incorporated herein by reference.¹²

ELECTION CONDUCTED BY MAIL. The measure election shall be held in the CITY OF {NAME} on {date – November 8, 2016 for the next general election}. As required by ORS

¹¹ Some cities approve the ballot title, question, summary, and explanatory statement by adopting an ordinance, rather than by adopting a separate resolution.

¹² Exhibit 1 should include the question and summary.

254.465, the measure election shall be conducted by mail by the County Clerk of {county name} County, according to the procedures adopted by the Oregon Secretary of State.

DELEGATION. The CITY OF {NAME} authorizes the {City Manager, City Administrator, City Recorder, or other appropriate city official} or the {City Manager, City Administrator, City Recorder, or other appropriate city official} designee, to act on behalf of the city and to take such further action as is necessary to carry out the intent and purposes set forth herein, in compliance with the applicable provisions of law.

PREPARATION OF BALLOT TITLE. The City Attorney is hereby directed to prepare the ballot title for the measure, and deposit the ballot title with the {city elections officer} within the times set forth by law.¹³

NOTICE OF BALLOT TITLE AND RIGHT TO APPEAL. Upon receiving the ballot title for this measure, the {city elections officer} shall publish in the next available edition of a newspaper of general circulation in the city a notice of receipt of the ballot title, including notice that an elector may file a petition for review of the ballot title.

EXPLANATORY STATEMENT. The explanatory statement for the measure, which is attached hereto as “Exhibit 2,” and incorporated herein by reference, is hereby approved.

FILING WITH COUNTY ELECTIONS OFFICE. The {city elections officer} shall deliver the Notice of Measure Election to the county clerk for {name of county} County for inclusion on the ballot for the {date} election.¹⁴

EFFECTIVE DATE. This resolution is effective upon adoption.

As noted, the ballot title, question, summary, and explanatory statement may be approved by the council through ordinance or resolution.

BALLOT TITLE

A caption which reasonably identifies the subject of the measure
10 word limit under ORS 250.035(1)(a)

Prohibits certain marijuana registrants {and/or} licensees in {city}

QUESTION

A question which plainly phrases the chief purpose of the measure so that an affirmative response to the question corresponds to an affirmative vote on the measure

¹³ Alternatively, the council may prepare the ballot title and attach it to the resolution for approval. In that case, this section might say, “The ballot title for the measure set forth as Exhibit {number} to this resolution is hereby adopted.” A city’s local rules may dictate who will prepare the ballot title.

¹⁴ The Notice of Measure Election is a form provided by the Oregon Secretary of State where cities provide the ballot title, question, summary, and explanatory statement. The form can be found on the Secretary of State’s website at www.sos.oregon.gov.

20 word limit under ORS 250.035(1)(b)

Shall {city} prohibit {medical marijuana processors, medical marijuana dispensaries, recreational marijuana producers, processors, wholesalers, and retailers} in {city}?

SUMMARY

A concise and impartial statement summarizing the measure and its major effect
175 word limit under ORS 250.035(1)(c)

**Note: This summary may need to be modified depending on which activities a city proposes to ban and whether it will grandfather in existing retail activities. By law, certain medical marijuana businesses can continue operating.*

State law allows operation of registered medical marijuana processors, medical marijuana dispensaries and licensed recreational marijuana producers, processors, wholesalers, and retailers. State law provides that a city council may adopt an ordinance to be referred to the voters to prohibit the establishment of any of those registered or licensed activities.

Approval of this measure would prohibit the establishment {and operation}¹⁵ of {medical marijuana processors, medical marijuana dispensaries, recreational marijuana producers, processors, wholesalers, and retailers} within the area subject to the jurisdiction of the city {provided that state law allows for continued operation of medical marijuana processors and medical marijuana dispensaries already registered – or in some cases, that have applied to be registered – and that have successfully completed a local land use application process}.

If this measure is approved, the city will be ineligible to receive distributions of state marijuana tax revenues and will be unable to impose a local tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated.

EXPLANATORY STATEMENT

An impartial, simple and understandable statement explaining the measure and its effect for use in the county voters' pamphlet

500 word limit under ORS 251.345 and OAR 165-022-0040(3)

Approval of this measure would prohibit the establishment {and operation}¹⁶ of certain marijuana activities within the city.

The Oregon Medical Marijuana Act, as amended by the Legislature in 2015, provides that the Oregon Health Authority will register medical marijuana processors and medical marijuana

¹⁵ Include this wording if (1) there are existing recreational licensees operating within the city and (2) the city does not wish to grandfather in those activities.

¹⁶ Include this wording if (1) there are existing recreational licensees operating within the city and (2) the city does not wish to grandfather in those activities.

dispensaries. Medical marijuana processors compound or convert marijuana into concentrates, extracts, edible products, and other products intended for human consumption and use. Medical marijuana dispensaries facilitate the transfer of marijuana and marijuana products between patients, caregivers, processors, and growers. Measure 91, approved by Oregon voters in 2014 and by the Legislature in 2015, provides that the Oregon Liquor Control Commission will license recreational marijuana producers (those who manufacture, plant, cultivate, grow or harvest marijuana), processors, wholesalers, and retailers.

A city council may adopt an ordinance prohibiting the establishment of any of those entities within the city, but the council must refer the ordinance to the voters at a statewide general election. The CITY OF {NAME} city council has adopted an ordinance prohibiting the establishment of {list of marijuana activities to be banned} within the city and, as a result, has referred this measure to the voters.

If approved, this measure would prohibit {medical marijuana processors, medical marijuana dispensaries, and/or recreational marijuana producers, processors, wholesalers, and/or retailers} within the city. Medical marijuana processors and medical marijuana dispensaries that were registered with the state before the city council adopted the ordinance, and medical marijuana dispensaries that had applied to be registered on or before July 1, 2015, can continue operating in the city even if this measure is approved, if those entities have successfully completed a local land use application process.

Approval of this measure has revenue impacts. Currently, ten percent of state marijuana tax revenues will be distributed to cities to assist local law enforcement in performing their duties under Measure 91. If approved, this measure would make the city ineligible to receive distributions of state marijuana tax revenues.

Currently, under the 2015 legislation, a city may impose up to a three percent tax on the sale of marijuana items by a marijuana retailer in the city. However, a city that adopts an ordinance prohibiting the establishment of medical marijuana processors, medical marijuana dispensaries, or recreational marijuana producers, processors, wholesalers, or retailers may not impose a local tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated. Approval of this measure would therefore prevent a city from imposing a local tax on those activities.

This document is not a substitute for legal advice. City councils considering prohibiting or taxing any marijuana facilities should not rely solely on this sample. Any city council considering any form of regulation of marijuana should consult with its city attorney regarding the advantages, disadvantages, risks and limitations of any given approach.

Legal counsel can also assist a city in preparing an ordinance that is consistent with local procedures, existing ordinances and a city's charter, and advise on what process is needed to adopt the ordinance. The sample provided is intended to be a starting point, not an ending point, for any jurisdiction considering prohibiting or taxing marijuana.

Appendix D

Local Tax by Voter Referral

APPENDIX D

Local Tax by Voter Referral

Under HB 3400, cities may impose up to a 3 percent tax on sales of marijuana items made by those with recreational retail licenses by referring an ordinance to the voters at a statewide general election, meaning an election in November of an even-numbered year.¹⁷

However, sections 133 and 134 of HB 3400, which provide a mechanism for prohibiting the establishment of certain marijuana businesses, state that a city that adopts a prohibition under those sections may not impose a tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated. As a result, if a city refers a local tax ordinance to the voters at the same election that it refers a prohibition ordinance to the voters, the city will want to consult its attorney regarding the effect of those two ordinances. The sample below includes wording for cities that put both ordinances on that same ballot. However, a city planning to refer both measures to the ballot should work closely with its city attorney on preparing those ordinances and referral documents.

As with any revenue raising measure, it's important that the budget committee approve any proposed taxes as part of its approval of the budget. See the Department of Revenue "Tax Election Ballot Measures" manual for more information.

In addition, it is important to note that once the elections official files the referral with the county election office, the ballot measure is certified to the ballot. At that point, the restrictions on public employees engaging in political activity will apply. Consequently, cities should consult the Secretary of State's manual *Restrictions on Political Campaigning by Public Employees* and their city attorney to ensure that public employees are complying with state elections law in their communications about the pending measure.

AN ORDINANCE OF THE CITY OF {NAME} IMPOSING A {UP TO THREE} PERCENT TAX {OR FEE} ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER AND REFERRING ORDINANCE¹⁸

Whereas, section 34a of House Bill 3400 (2015) provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

¹⁷ Cities that imposed marijuana taxes prior to the effective date of HB 3400 (2015) should talk to their city attorney about the status of those taxes.

¹⁸ No emergency clause is included in this ordinance because a city may not include an emergency clause in an ordinance regarding taxation. See *Advance Resorts v. City of Wheeler*, 141 Or App 166, 178, 917 P2d 61, rev den, 324 Or 322 (1996) (holding that a city may not include an emergency clause in an ordinance regarding taxation).

Whereas, the city council wants to impose a tax {or fee} on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

NOW THEREFORE, BASED ON THE FOREGOING, THE CITY OF {NAME} ORDAINS AS FOLLOWS:

DEFINITIONS.

Marijuana item has the meaning given that term in Oregon Laws 2015, chapter 614, section 1.

Marijuana retailer means a person who sells marijuana items to a consumer in this state.

Retail sale price means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

TAX IMPOSED. As described in section 34a of House Bill 3400 (2015), the City of {Name} hereby imposes a tax {or fee} of {up to three} percent on the retail sale price of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city.

COLLECTION. The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items.¹⁹

REFERRAL. This ordinance shall be referred to the electors of {city} at the next statewide general election on {date – Tuesday, November 8, 2016 is the next statewide general election}.

A RESOLUTION APPROVING REFERAL TO THE ELECTORS OF THE CITY OF {NAME} THE QUESTION OF IMPOSING A {UP TO THREE} PERCENT TAX {OR FEE} ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER WITHIN THE CITY²⁰

Whereas, section 34a of House Bill 3400 (2015) provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

Whereas, the city of {name} city council adopted Ordinance {number}, which imposes a tax of {up to three} percent on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

NOW, THEREFORE, THE CITY OF {NAME} RESOLVES AS FOLLOWS:

MEASURE. A measure election is hereby called for the purpose of submitting to the electors of the city of {name} a measure imposing a {up to three} percent tax on the sale of marijuana items

¹⁹ Cities may want to include information about where, how, and when the tax must be remitted.

²⁰ Some cities approve the ballot title, question, summary, and explanatory statement by adopting an ordinance, rather than by adopting a separate resolution.

by a marijuana retailer in the area subject to the jurisdiction of the city, a copy of which is attached hereto as "Exhibit 1," and incorporated herein by reference.²¹

ELECTION CONDUCTED BY MAIL. The measure election shall be held in the city of {name} on {date – November 8, 2016 for the next general election}. As required by ORS 254.465, the measure election shall be conducted by mail by the County Clerk of {county name} County, according to the procedures adopted by the Oregon Secretary of State.

DELEGATION. The city of {name} authorizes the City Manager, or the City Manager’s designee, to act on behalf of the city and to take such further action as is necessary to carry out the intent and purposes set forth herein, in compliance with the applicable provisions of law.

PREPARATION OF BALLOT TITLE. The City Attorney is hereby directed to prepare the ballot title for the measure, and deposit the ballot title with the {city elections officer} within the times set forth by law.²²

NOTICE OF BALLOT TITLE AND RIGHT TO APPEAL. Upon receiving the ballot title for this measure, the {city elections officer} shall publish in the next available edition of a newspaper of general circulation in the city a notice of receipt of the ballot title, including notice that an elector may file a petition for review of the ballot title.

EXPLANATORY STATEMENT. The explanatory statement for the measure, which is attached hereto as "Exhibit 2," and incorporated herein by reference, is hereby approved.

FILING WITH COUNTY ELECTIONS OFFICE. The {city elections officer} shall deliver the Notice of Measure Election to the county clerk for {name of county} County for inclusion on the ballot for the {date} election.²³

EFFECTIVE DATE. This resolution is effective upon adoption.

BALLOT TITLE

A caption which reasonably identifies the subject of the measure
10 word limit under ORS 250.035(1)(a)

Imposes city tax on marijuana retailer’s sale of marijuana items

²¹ Exhibit 1 should include the question and summary.

²² Alternatively, the council may prepare the ballot title and attach it to the resolution for approval. In that case, this section might say, "The ballot title for the measure set forth as Exhibit {number} to this resolution is hereby adopted." A city’s local rules may dictate who will prepare the ballot title.

²³ The Notice of Measure Election is a form provided by the Oregon Secretary of State where cities provide the ballot title, question, summary, and explanatory statement. The form can be found on the Secretary of State’s website at www.sos.oregon.gov.

QUESTION

A question which plainly phrases the chief purpose of the measure so that an affirmative response to the question corresponds to an affirmative vote on the measure

20 word limit under ORS 250.035(1)(b)

Shall City of {name} impose a {up to three percent} tax on the sale in the City of {city} of marijuana items by a marijuana retailer?

SUMMARY

A concise and impartial statement summarizing the measure and its major effect

175 word limit under ORS 250.035(1)(c)

Under state law, a city council may adopt an ordinance to be referred to the voters of the city imposing up to a three percent tax or fee on the sale of marijuana items in the city by a licensed marijuana retailer.

Approval of this measure would impose a {up to three} percent tax on the sale of marijuana items in the city by a licensed marijuana retailer. The tax would be collected at the point of sale and remitted by the marijuana retailer.

{Under state law, a city that adopts an ordinance that prohibits the establishment in the area subject to the jurisdiction of the city of a medical marijuana processor, medical marijuana dispensary, or recreational marijuana producer, processor, wholesaler, or retailer may not impose a tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated. This measure would become operative only if the measure proposing to prohibit the establishment of any of those marijuana entities does not pass by a majority of votes.}²⁴

EXPLANATORY STATEMENT

An impartial, simple and understandable statement explaining the measure and its effect for use in the county voters' pamphlet

500 word limit under ORS 251.345 and OAR 165-022-0040(3)

Approval of this measure would impose a {up to three} percent tax on the sale of marijuana items by a marijuana retailer within the city. If approved, the revenues from this tax are estimated to be \$_____. There are no restrictions on how the city may use the revenues generated by this tax. {However, this measure will become operative only if the ballot measure prohibiting the establishment of certain marijuana registrants and licensees fails.}

²⁴ Cities that desire to provide voters with the most options may wish to put both a measure banning certain activities and a tax measure before the voters at the same time. Cities that elect to do so should include this wording explaining the effect of the vote.

Under Measure 91, adopted by Oregon voters in November 2014 and amended by the Legislature in 2015, the Oregon Liquor Control Commission must license the retail sale of recreational marijuana. The 2015 Legislation provides that a city council may adopt an ordinance imposing up to a three percent tax on the sale of marijuana items (which include marijuana concentrates, extracts, edibles, and other products intended for human consumption and use) by retail licensees in the city, but the council must refer that ordinance to the voters at a statewide general election. The City of {name} city council has adopted an ordinance imposing a {up to three} percent tax on the sale of marijuana items by a retail licensee in the city, and, as a result, has referred this measure to the voters.

{However, this measure will become operative only if the ballot measure prohibiting the establishment of certain marijuana registrants and licensees fails. Under state law, a city that adopts an ordinance that prohibits the establishment in the area subject to the jurisdiction of the city of a medical marijuana processor, medical marijuana dispensary, or recreational marijuana producer, processor, wholesaler, or retailer may not impose a tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated. As a result, if the voters pass a prohibition ordinance, this tax measure will not become operative, even if it also receives a majority of votes.}

This document is not a substitute for legal advice. City councils considering prohibiting or taxing any marijuana facilities should not rely solely on this sample. Any city council considering any form of regulation of marijuana should consult with its city attorney regarding the advantages, disadvantages, risks and limitations of any given approach.

Legal counsel can also assist a city in preparing an ordinance that is consistent with local procedures, existing ordinances and a city's charter, and advise on what process is needed to adopt the ordinance.

The sample provided is intended to be a starting point, not an ending point, for any jurisdiction considering prohibiting or taxing marijuana.

ATTACHMENT 3

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ATTACHMENT 3

78th OREGON LEGISLATIVE ASSEMBLY--2015 Regular Session

Enrolled House Bill 3400

Sponsored by Representatives LININGER, OLSON, Senators BEYER, BURDICK, FERRIOLI, KRUSE, PROZANSKI; Senator STEINER HAYWARD

CHAPTER

AN ACT

Relating to marijuana; creating new provisions; amending ORS 133.005, 133.525, 133.721, 133.726, 153.005, 161.015, 161.705, 163.095, 165.805, 166.070, 181.010, 181.534, 181.537, 181.610, 181.645, 181.646, 238.005, 471.001, 471.360, 471.375, 471.675, 471.775, 475.300, 475.302, 475.303, 475.304, 475.306, 475.309, 475.312, 475.314, 475.316, 475.319, 475.320, 475.323, 475.326, 475.328, 475.331, 475.334, 475.338, 475.340, 475.342, 475.752, 475.856, 475.858, 475.860, 475.862, 475.864, 475.900, 475.904, 616.010, 659A.320, 659A.403, 659A.409, 659A.885 and 802.250 and section 32, chapter 54, Oregon Laws 2012, section 2, chapter 79, Oregon Laws 2014, and sections 1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 43, 45, 46, 47, 48, 49, 50, 51, 53, 56, 57, 58, 59, 60, 61, 63, 64, 65, 66, 67, 68, 69, 70 and 72, chapter 1, Oregon Laws 2015; repealing ORS 475.324 and sections 26, 42, 55, 71, 81, 82, 83, 84, 85 and 86, chapter 1, Oregon Laws 2015, and sections 32, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 67, 69, 70, 71, 72, 73 and 74, chapter ____, Oregon Laws 2015 (Enrolled Senate Bill 964); and declaring an emergency.

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

BALLOT MEASURE 91 OPERATIVE JANUARY 1, 2016

(Definitions)

SECTION 1. Section 5, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 5. As used in sections 3 to 70, chapter 1, Oregon Laws 2015 [of this Act]:

[(1) "Authority" means the Oregon Health Authority.]

[(2) "Commission" means the Oregon Liquor Control Commission.]

[(3)] (1) "Consumer" means a person who purchases, acquires, owns, holds[,] or uses marijuana items other than for the purpose of resale.

(2) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.

(3) "Cannabinoid concentrate" means a substance obtained by separating cannabinoids from marijuana by:

(a) A mechanical extraction process;

(b) A chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol;

(c) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or

(d) Any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

(4) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried marijuana leaves or flowers have been incorporated.

(5) "Cannabinoid extract" means a substance obtained by separating cannabinoids from marijuana by:

(a) A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane;

(b) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or

(c) Any other process identified by the commission, in consultation with the authority, by rule.

(6)(a) "Cannabinoid product" means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers.

(b) "Cannabinoid product" does not include:

(A) Usable marijuana by itself;

(B) A cannabinoid concentrate by itself;

(C) A cannabinoid extract by itself; or

(D) Industrial hemp, as defined in ORS 571.300.

[(4) "Department" means the State Department of Agriculture.]

[(5)(a)] (7)(a) ["Financial consideration," except as provided in paragraph (b) of this subsection,] "Financial consideration" means value that is given or received either directly or indirectly through sales, barter, trade, fees, charges, dues, contributions or donations.

(b) "Financial consideration" does not [mean any of the following] include:

(A) Homegrown marijuana [made by another person.] that is given or received when nothing is given or received in return; or

(B) Homemade [marijuana products made by another person.] cannabinoid products or cannabinoid concentrates that are given or received when nothing is given or received in return.

[(6)] (8) "Homegrown" or "homemade" means grown or made by a person 21 years of age or older for noncommercial purposes.

[(7)] (9) "Household" means a housing unit[,] and [includes] any place in or around [the] a housing unit at which the occupants of the housing unit are producing, processing, [keeping,] or storing homegrown marijuana or homemade [marijuana] cannabinoid products or cannabinoid concentrates.

[(8)] (10) "Housing unit" means a house, an apartment[,] or a mobile home, or a group of rooms[,] or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other persons in the building and [which have] that has direct access from the outside of the building or through a common hall.

[(9) "Immature marijuana plant" means a marijuana plant with no observable flowers or buds.]

(11) "Immature marijuana plant" means a marijuana plant that is not flowering.

[(10)] (12) "Licensee" means [any] a person [holding] who holds a license issued under [this Act] section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015[, or any person holding a license or permit issued under any regulation promulgated under paragraph (e) of subsection (2) of section 7 of this Act].

[(11)] (13) "Licensee representative" means an owner, director, officer, manager, employee, agent[,] or other representative of a licensee, to the extent [such] that the person acts in [such] a representative capacity.

[(12)(a) "Marijuana" means all parts of the plant Cannabis family Moraceae, whether growing or not, other than marijuana extracts.]

[(b) "Marijuana" does not include industrial hemp, as defined in ORS 571.300, or industrial hemp commodities or products.]

[(13) "Marijuana extract" means a product obtained by separating resins from marijuana by solvent extraction, using solvents other than vegetable glycerin, such as butane, hexane, isopropyl alcohol, ethanol, and carbon dioxide.]

(14)(a) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(b) "Marijuana" does not include industrial hemp, as defined in ORS 571.300.

[(14)(a)] (15) "Marijuana flowers" means the flowers of the plant [Cannabis family Moraceae] genus Cannabis within the plant family Cannabaceae.

[(b) "Marijuana flowers" does not include any part of the plant other than the flowers.]

[(15)] (16) "Marijuana items" means marijuana, [marijuana products, and marijuana extracts] cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

[(16)(a)] (17) "Marijuana leaves" means the leaves of the plant [Cannabis family Moraceae] genus Cannabis within the plant family Cannabaceae.

[(b) "Marijuana leaves" does not include any part of the plant other than the leaves.]

[(17)] (18) "Marijuana processor" means a person who processes marijuana items in this state.

[(18)] (19) "Marijuana producer" means a person who produces marijuana in this state.

[(19)(a) "Marijuana products" means products that contain marijuana or marijuana extracts and are intended for human consumption.]

[(b) "Marijuana products" does not mean:]

[(A) Marijuana, by itself; or]

[(B) A marijuana extract, by itself.]

(20) "Marijuana retailer" means a person who sells marijuana items to a consumer in this state.

(21) "Marijuana wholesaler" means a person who purchases marijuana items in this state for resale to a person other than a consumer [in this state].

(22) "Mature marijuana plant" means [any] a marijuana plant that is not an immature marijuana plant.

(23) "Noncommercial" means not dependent or conditioned upon the provision or receipt of financial consideration.

[(24) "Person" means any natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, joint venture, or any other legal entity.]

[(25) "Premises" or "licensed premises" means a location licensed under sections 3 to 70 of this Act and includes:]

(24)(a) "Premises" or "licensed premises" includes the following areas of a location licensed under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015:

[(a)] (A) All public and private enclosed 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];

[(b)] (B) All areas outside [of] a building that the [Oregon Liquor Control] commission has specifically licensed for the production, processing, wholesale sale[,] or retail sale of marijuana items; and

[(c)] (C) For a location that the commission has specifically licensed for the production of marijuana outside [of] a building, the entire lot or parcel, as defined in ORS 92.010, that the licensee owns, leases[,] or has a right to occupy.

(b) "Premises" or "licensed premises" does not include a primary residence.

[(26)(a)] (25)(a) "Processes" means[:]

[(A)] the processing, compounding[,] or conversion of marijuana into [marijuana products or marijuana extracts:] cannabinoid products, cannabinoid concentrates or cannabinoid extracts.

(b) **“Processes” does not include packaging or labeling.**

[(B) *The processing, compounding, or conversion of marijuana, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis;*]

[(C) *The packaging or repackaging of marijuana items; or*]

[(D) *The labeling or relabeling of any package or container of marijuana items.*]

[(b) *“Processes” does not include:*]

[(A) *The drying of marijuana by a marijuana producer, if the marijuana producer is not otherwise processing marijuana; or*]

[(B) *The packaging and labeling of marijuana by a marijuana producer in preparation for delivery to a marijuana processor.*]

[(27)(a)] (26)(a) **“Produces”** means the manufacture, planting, cultivation, growing[,] or harvesting of marijuana.

(b) **“Produces”** does not include:

(A) The drying of marijuana by a marijuana processor, if the marijuana processor is not otherwise producing marijuana; or

(B) The cultivation and growing of an immature marijuana plant by a marijuana processor, marijuana wholesaler[,] or marijuana retailer if the marijuana processor, marijuana wholesaler[,] or marijuana retailer purchased or otherwise received the plant from a licensed marijuana producer.

(27) **“Propagate”** means to grow immature marijuana plants or to breed or produce the seeds of the plant *Cannabis* family *Cannabaceae*.

(28) **“Public place”** means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and [premises] areas used in connection with public passenger transportation.

[(29) *“Usable marijuana” means dried marijuana flowers and dried marijuana leaves, and any mixture or preparation thereof.*]

(29)(a) **“Usable marijuana”** means the dried leaves and flowers of marijuana.

(b) **“Usable marijuana”** does not include:

(A) The seeds, stalks and roots of marijuana; or

(B) Waste material that is a by-product of producing or processing marijuana.

(Powers and Duties of Commission)

SECTION 2. Section 7, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 7. (1) The Oregon Liquor Control Commission has the powers and duties specified in sections 3 to 70, **chapter 1, Oregon Laws 2015, and** [of this Act, and also] the powers necessary or proper to enable [it] the commission to carry out [fully and effectually all the purposes of] the commission's duties, functions and powers under sections 3 to 70, **chapter 1, Oregon Laws 2015** [of this Act]. The jurisdiction, supervision, [powers and duties] duties, functions and powers of the commission extend to any person who buys, sells, produces, processes, transports[,] or delivers any marijuana items within this state. The commission may sue and be sued.

(2) The [function,] duties, **functions** and powers of the commission in sections 3 to 70, **chapter 1, Oregon Laws 2015, [of this Act]** include the following:

(a) To regulate the purchase, sale, production, processing, transportation[,] and delivery of marijuana items in accordance with the provisions of sections 3 to 70, **chapter 1, Oregon Laws 2015** [of this Act].

(b) To grant, refuse, suspend or cancel licenses for the sale, processing[,] or production of marijuana items, or other licenses in regard to marijuana items, and to permit, in [its] the commission's discretion, the transfer of a license [of any person.] **between persons.**

[(c) To collect the taxes and duties imposed by sections 3 to 70 of this Act, and to issue, and provide for cancellation, stamps and other devices as evidence of payment of such taxes or duties.]

[(d)] (c) To investigate and aid in the prosecution of every violation of [Oregon statutes] the statutory laws of this state relating to marijuana items[,] and to cooperate in the prosecution of offenders before any state court of competent jurisdiction.

[(e)] (d) To adopt [such regulations as are], amend or repeal rules as necessary [and feasible for carrying] to carry out the intent and provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, including rules that the commission considers necessary to protect the public health and safety. [of this Act and to amend or repeal such regulations. When such regulations are adopted they shall have the full force and effect of law.]

[(f)] (e) To exercise all powers incidental, convenient or necessary to enable [it] the commission to administer or carry out [any of] the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, or any other law of this state that charges the commission with a duty, function or power related to marijuana [of this Act]. Powers described in this paragraph include, but are not limited to:

(A) Issuing subpoenas;

(B) Compelling the attendance of witnesses;

(C) Administering oaths;

(D) Certifying official acts;

(E) Taking depositions as provided by law;

(F) Compelling the production of books, payrolls, accounts, papers, records, documents and testimony; and

(G) Establishing fees in addition to the application, licensing and renewal fees described in sections 19, 20, 21 and 22, chapter 1, Oregon Laws 2015, provided that any fee established by the commission is reasonably calculated not to exceed the cost of the activity for which the fee is charged.

[(g) To regulate and prohibit any advertising by manufacturers, processors, wholesalers or retailers of marijuana items by the medium of newspapers, letters, billboards, radio or otherwise.]

(f) To adopt rules regulating and prohibiting marijuana producers, marijuana processors, marijuana wholesalers and marijuana retailers from advertising marijuana items in a manner:

(A) That is appealing to minors;

(B) That promotes excessive use;

(C) That promotes illegal activity; or

(D) That otherwise presents a significant risk to public health and safety.

[(h)] (g) To regulate the use of marijuana items for scientific, pharmaceutical, manufacturing, mechanical, industrial and other purposes.

(3) Fees collected pursuant to subsection (2)(e)(G) of this section shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.

[(3) On or before January 1, 2016, the commission, after consultation with the State Department of Agriculture and the Oregon Health Authority, shall prescribe forms and adopt such rules and regulations as the commission deems necessary for the implementation and administration of sections 3 to 70 of this Act.]

[(4) On or before January 1, 2017, the commission shall:]

[(a) Examine available research, and may conduct or commission new research, to investigate the influence of marijuana on the ability of a person to drive a vehicle and on the concentration of delta-9 tetrahydrocannabinol in a person's blood, in each case taking into account all relevant factors; and]

[(b) Present the results of the research to the Legislative Assembly and make recommendations to the Legislative Assembly regarding whether any amendments to the Oregon Vehicle Code are appropriate.]

[(5) The commission has no power to purchase, own, sell, or possess any marijuana items.]

(Power to Purchase, Possess, Seize, Dispose)

SECTION 3. The Oregon Liquor Control Commission may purchase, possess, seize or dispose of marijuana items as is necessary for the commission to ensure compliance with and enforce the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, and any rule adopted under sections 3 to 70, chapter 1, Oregon Laws 2015.

SECTION 4. Any state officer, board, commission, corporation, institution, department or other state body, and any local officer, board, commission, institution, department or other local government body, that is authorized by the statutory laws of this state to perform a duty, function or power with respect to a marijuana item, may purchase, possess, seize or dispose of the marijuana item as the state officer, board, commission, corporation, institution, department or other state body, or the local officer, board, commission, institution, department or other local government body, considers necessary to ensure compliance with and enforce the applicable statutory law or any rule adopted under the applicable statutory law.

(Regulation of Licensees)

SECTION 5. Section 25, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 25. (1) A license granted under sections 3 to 70, chapter 1, Oregon Laws 2015 [of this Act shall]:

- (a) [Be] Is a purely personal privilege.
 - (b) [Be] Is valid for the period stated in the license.
 - (c) [Be] Is renewable in the manner provided in section 28, chapter 1, Oregon Laws 2015 [of this Act], except for a cause [which] that would be grounds for refusal to issue [such] the license under section 29, chapter 1, Oregon Laws 2015 [of this Act].
 - (d) [Be] Is revocable or suspendible as provided in section 30, chapter 1, Oregon Laws 2015 [of this Act].
 - (e) [Be] Is transferable from the premises for which the license was originally issued to another premises subject to the provisions of [this Act, any] sections 3 to 70, chapter 1, Oregon Laws 2015, applicable rules of the Oregon Liquor Control Commission and [any municipal ordinance or local regulation] applicable local ordinances.
 - (f) [Cease] Expires upon the death of the licensee, except as provided in subsection (2) of this section.
 - (g) Does not constitute property.
 - (h) Is not [be] alienable.
 - (i) Is not [be] subject to attachment or execution.
 - (j) Does not descend by the laws of testate or intestate devolution.
- (2) The commission may, by order, provide for the manner and conditions under which:
- (a) Marijuana items left by [any] a deceased, insolvent or bankrupt person or licensee, or subject to a security interest, may be foreclosed, sold under execution or otherwise disposed [of].
 - (b) The business of [any] a deceased, insolvent or bankrupt licensee may be operated for a reasonable period following the death, insolvency or bankruptcy.
 - (c) [A business licensed pursuant to sections 3 to 70 of this Act subject to a security interest may be continued in business by a secured party as defined in ORS 79.0102] A secured party, as defined in ORS 79.0102, may continue to operate a business for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, for a reasonable period after default on the indebtedness by the debtor.

SECTION 6. Section 27, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 27. (1) A marijuana producer, marijuana processor[,] or marijuana wholesaler [shall] may deliver marijuana items only to or on a licensed premises.

(2) A licensed premises may receive marijuana items only from a marijuana producer, marijuana processor or marijuana wholesaler for whom a premises has been licensed by the Oregon Liquor Control Commission.

(3) The sale of marijuana items *[under any license issued by the Oregon Liquor Control Commission for retail sales by a licensee shall]* by a marijuana retailer that holds a license issued under section 22, chapter 1, Oregon Laws 2015, must be restricted to the premises described in the license, but deliveries may be made by the marijuana retailer to consumers pursuant to a bona fide *[orders]* order received *[on]* at the licensed premises prior to delivery.

SECTION 7. Section 28, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 28. (1) *[Any person desiring]* An applicant for a license or renewal of a license under sections 3 to 70, chapter 1, Oregon Laws 2015, shall apply *[of this Act shall make application]* to the Oregon Liquor Control Commission *[upon forms to be furnished]* in the form required by the commission, showing the name and address of the applicant, location of the place of business that is to be operated under the license[,] and *[such]* other pertinent information *[as]* required by the commission *[may require]*. *[No license shall be granted or renewed]* The commission may not grant or renew a license until the applicant has complied with the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, *[of this Act]* and the rules of the commission.

(2) The commission may reject any application that is not submitted in the form required by rule. The commission shall give applicants an opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS chapter 183.

(3) Except as provided in subsection (2) of this section, a revocation of, or a refusal to issue or renew, a license under sections 3 to 70, chapter 1, Oregon Laws 2015, *[of this Act]* is subject to the requirements for contested case proceedings under ORS chapter 183.

[(4) The commission shall assess a nonrefundable fee for processing a new or renewal application for any license authorized by sections 3 to 70 of this Act. The application processing fee shall be \$250.]

[(5) The annual license fee for any license granted under sections 3 to 70 of this Act shall be \$1,000. The license fee is nonrefundable and shall be paid by each applicant upon the granting or committing of a license.]

SECTION 8. Section 29, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 29. (1) The Oregon Liquor Control Commission may not license *[any]* an applicant under the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, *[of this Act]* if the applicant is under 21 years of age.

(2) The *[Oregon Liquor Control]* commission may refuse to license *[any]* an applicant under the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, *[of this Act]* if the commission has reasonable ground to believe *[any of the following to be true:]*

[(a) That there are sufficient licensed premises in the locality set out in the application, or that the granting of a license in the locality set out in the application is not demanded by public interest or convenience. In determining whether there are sufficient licensed premises in the locality, the commission shall consider seasonal fluctuations in the population of the locality and shall ensure that there are adequate licensed premises to serve the needs of the locality during the peak seasons.]

[(b)] that the applicant:

[(A)] (a) Is in the habit of using alcoholic beverages, habit-forming drugs, marijuana[,] or controlled substances to excess.

[(B)] (b) Has made false statements to the commission.

[(C)] (c) Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.

[(D)] (d) Has been convicted of violating a general or local law of this state or another state, or of violating a federal law, if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license.

[(E) Has maintained an insanitary establishment.]

[(F)] (e) Is not of good repute and moral character.

[(G)] (f) [Did] Does not have a good record of compliance with sections 3 to 70, chapter 1, Oregon Laws 2015, [of this Act] or any rule of the commission adopted [pursuant thereto] under sections 3 to 70, chapter 1, Oregon Laws 2015.

[(H)] (g) Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership interests in the business [which] that have not been disclosed.

[(I)] (h) Is not possessed of or has not demonstrated financial responsibility sufficient to adequately meet the requirements of the business proposed to be licensed.

[(J)] (i) Is unable to understand the laws of [Oregon] this state relating to marijuana or the rules of the commission relating to marijuana.

(3) Notwithstanding [subparagraph (D) of paragraph (b) of] subsection (2)(d) of this section, in determining whether the commission may refuse to license an applicant, the commission may not consider the prior conviction of the applicant or any owner, director, officer, manager, employee, agent[,] or other representative of the applicant for:

(a) The manufacture of marijuana, if:

(A) The date of the conviction is two or more [than five] years before the date of the application; and

(B) The person has not been convicted more than once for the manufacture or delivery of marijuana;

(b) The delivery of marijuana to a person 21 years of age or older, if:

(A) The date of the conviction is two or more [than five] years before the date of the application; and

(B) The person has not been convicted more than once for the manufacture or delivery of marijuana; or

(c) The possession of marijuana.

SECTION 9. Section 30, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 30. [(1)] The Oregon Liquor Control Commission may [cancel] revoke or suspend [any] a license issued under sections 3 to 70, chapter 1, Oregon Laws 2015 [of this Act], if the commission finds or has reasonable ground to believe any of the following to be true:

[(a)] (1) That the licensee:

[(A)] (a) Has violated [any] a provision of sections 3 to 70, chapter 1, Oregon Laws 2015, [of this Act] or [any] a rule of the commission adopted [pursuant thereto] under sections 3 to 70, chapter 1, Oregon Laws 2015.

[(B)] (b) Has made any false representation or statement to the commission in order to induce or prevent action by the commission.

[(C)] Has maintained an insanitary establishment.]

[(D)] (c) Is insolvent or incompetent or physically unable to carry on the management of the establishment of the licensee.

[(E)] (d) Is in the habit of using alcoholic liquor, habit-forming drugs, marijuana[,] or controlled substances to excess.

[(F)] (e) Has misrepresented to a customer or the public any marijuana items sold by the licensee.

[(G)] (f) Since the granting of the license, has been convicted of a felony, of violating any of the marijuana laws of this state, general or local, or of any misdemeanor or violation of any municipal ordinance committed on the licensed premises.

[(b)] (2) That there is any other reason that, in the opinion of the commission, based on public convenience or necessity, warrants canceling or suspending [such] the license.

[(2) Civil penalties under this section shall be imposed as provided in ORS 183.745.]

SECTION 10. For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the Oregon Liquor Control Commission may require the fingerprints of any individual listed on an application submitted under section 28, chapter 1, Oregon Laws 2015.

SECTION 11. Section 18, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 18. (1) *[On or before January 4, 2016,]* The Oregon Liquor Control Commission shall *[begin receiving applications for the licensing of persons]* **approve or deny an application** to produce, process[,] and sell marijuana *[within the state]* **under sections 19, 20, 21 and 22, chapter 1, Oregon Laws 2015.** Upon *[receipt of a license]* **receiving an application**, the commission *[shall]* **may not unreasonably delay** *[the processing, approval, or rejection of]* **processing, approving or denying** the application or, if the application is approved, *[the issuance of]* **issuing** the license.

(2) The licenses described in sections *[3 to 70 of this Act shall]* **19, 20, 21 and 22, chapter 1, Oregon Laws 2015, must** be issued by the commission, subject to *[its regulations and restrictions and]* the provisions of sections 3 to 70 *[of this Act], chapter 1, Oregon Laws 2015, and the rules adopted under sections 3 to 70, chapter 1, Oregon Laws 2015.*

(3) The commission may not license a premises that does not have defined boundaries. A licensed premises *[need not]* **does not need to** be enclosed by a wall, fence or other structure, but the commission may require that *[any]* a licensed premises be enclosed as a condition of issuing or renewing a license. The commission may not license *[premises that are]* **mobile premises.**

(License Holders)

SECTION 12. Section 19, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 19. (1) The production of marijuana is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana producer must have a production license issued by the commission for the premises at which the marijuana is produced. **To hold a production license under this section, a marijuana producer:**

(a) **Must apply for a license in the manner described in section 28, chapter 1, Oregon Laws 2015;**

(b) **Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under section 28, chapter 1, Oregon Laws 2015, has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older; and**

(c) **Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.**

(3) **The commission shall adopt rules that:**

(a) **Require a marijuana producer to annually renew a license issued under this section;**

(b) **Establish application, licensure and renewal of licensure fees for marijuana producers;**

(c) **Require marijuana produced by marijuana producers to be tested in accordance with section 92 of this 2015 Act;**

(d) **Require marijuana producers to submit, at the time of applying for or renewing a license under section 28, chapter 1, Oregon Laws 2015, a report describing the applicant's or licensee's electrical or water usage; and**

(e)(A) **Require a marijuana producer to meet any public health and safety standards and industry best practices established by the commission by rule related to:**

(i) **The production of marijuana; or**

(ii) **The propagation of immature marijuana plants and the seeds of the plant Cannabis family Cannabaceae.**

(B) **For purposes of establishing rules under subparagraph (A)(ii) of this paragraph, the commission may not limit:**

(i) **The number of immature marijuana plants that may be possessed by a marijuana producer licensed under this section;**

(ii) **The size of the grow canopy a marijuana producer licensed under this section uses to grow immature marijuana plants; or**

(iii) The weight or size of shipments of immature marijuana plants made by a marijuana producer licensed under this section.

(4) Fees adopted under subsection (3)(b) of this section:

(a) May not exceed the cost of administering sections 3 to 70, chapter 1, Oregon Laws 2015, with respect to marijuana producers;

(b) Shall be in the form of a schedule that imposes a greater fee for premises with more square footage or on which more mature marijuana plants are grown; and

(c) Shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.

SECTION 13. (1) Subject to subsection (2) of this section, the Oregon Liquor Control Commission shall adopt rules restricting the size of mature marijuana plant grow canopies at premises for which a license has been issued under section 19, chapter 1, Oregon Laws 2015. In adopting rules under this subsection, the commission shall:

(a) Limit the size of mature marijuana plant grow canopies, for premises where marijuana is grown outdoors and for premises where marijuana is grown indoors, in a manner calculated to result in premises that produce the same amount of harvested marijuana leaves and harvested marijuana flowers regardless of whether the marijuana is grown outdoors or indoors.

(b) Adopt a tiered system under which the permitted size of a marijuana producer's mature marijuana plant grow canopy increases at the time of licensure renewal under section 19, chapter 1, Oregon Laws 2015, except that the permitted size of a marijuana producer's mature marijuana plant grow canopy may not increase following any year during which the commission disciplined the marijuana producer for violating a provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or a rule adopted under a provision of sections 3 to 70, chapter 1, Oregon Laws 2015.

(c) Take into consideration the market demand for marijuana items in this state, the number of persons applying for a license under section 19, chapter 1, Oregon Laws 2015, and to whom a license has been issued under section 19, chapter 1, Oregon Laws 2015, and whether the availability of marijuana items in this state is commensurate with the market demand.

(2) This section does not apply to a premises for which a license has been issued under section 19, chapter 1, Oregon Laws 2015, if the premises is used only to propagate immature marijuana plants.

SECTION 14. Section 20, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 20. (1) The processing of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana processor must have a processor license issued by the commission for the premises at which marijuana items are processed. To hold a processor license under this section, a marijuana processor:

(a) Must apply for a license in the manner described in section 28, chapter 1, Oregon Laws 2015;

(b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under section 28, chapter 1, Oregon Laws 2015, has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older;

(c) If the marijuana processor processes marijuana extracts, may not be located in an area zoned exclusively for residential use; and

(d) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.

(3) The commission shall adopt rules that:

(a) Require a marijuana processor to annually renew a license issued under this section;

(b) Establish application, licensure and renewal of licensure fees for marijuana processors;

(c) Require marijuana processed by a marijuana processor to be tested in accordance with section 92 of this 2015 Act; and

(d) Require a marijuana processor to meet any public health and safety standards and industry best practices established by the commission by rule related to:

(A) Cannabinoid edibles;

(B) Cannabinoid concentrates;

(C) Cannabinoid extracts; and

(D) Any other type of cannabinoid product identified by the commission by rule.

(4) Fees adopted under subsection (3)(b) of this section:

(a) May not exceed the cost of administering sections 3 to 70, chapter 1, Oregon Laws 2015, with respect to marijuana processors; and

(b) Shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.

SECTION 15. Section 21, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 21. (1) The wholesale sale of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana wholesaler must have a wholesale license issued by the commission for the premises at which marijuana items are received, [kept,] stored[,] or delivered. **To hold a wholesale license under this section, a marijuana wholesaler:**

(a) Must apply for a license in the manner described in section 28, chapter 1, Oregon Laws 2015;

(b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under section 28, chapter 1, Oregon Laws 2015, has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older;

(c) May not be located in an area that is zoned exclusively for residential use; and

(d) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.

(3) The commission shall adopt rules that:

(a) Require a marijuana wholesaler to annually renew a license issued under this section;

(b) Establish application, licensure and renewal of licensure fees for marijuana wholesalers;

(c) Require marijuana items received, stored or delivered by a marijuana wholesaler to be tested in accordance with section 92 of this 2015 Act; and

(d) Require a marijuana wholesaler to meet any public health and safety standards and industry best practices established by the commission by rule.

(4) Fees adopted under subsection (3)(b) of this section:

(a) May not exceed the cost of administering sections 3 to 70, chapter 1, Oregon Laws 2015, with respect to marijuana wholesalers; and

(b) Shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.

SECTION 16. Section 22, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 22. (1) The retail sale of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana retailer must have a retail license issued by the commission for the premises at which marijuana items are sold. **To hold a retail license under this section, a marijuana retailer:**

(a) Must apply for a license in the manner described in section 28, chapter 1, Oregon Laws 2015;

(b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under section 28, chapter 1, Oregon Laws 2015, has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older;

(c) May not be located in an area that is zoned exclusively for residential use;

- (d) May not be located within 1,000 feet of:
 - (A) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or
 - (B) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a); and
 - (e) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.
- (3) The commission shall adopt rules that:
 - (a) Require a marijuana retailer to annually renew a license issued under this section;
 - (b) Establish application, licensure and renewal of licensure fees for marijuana retailers;
 - (c) Require marijuana items sold by a marijuana retailer to be tested in accordance with section 92 of this 2015 Act; and
 - (d) Require a marijuana retailer to meet any public health and safety standards and industry best practices established by the commission by rule.
- (4) Fees adopted under subsection (3)(b) of this section:
 - (a) May not exceed the cost of administering sections 3 to 70, chapter 1, Oregon Laws 2015, with respect to marijuana retailers; and
 - (b) Shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.

SECTION 17. If a school described in section 22 (2)(d), chapter 1, Oregon Laws 2015, that has not previously been attended by children is established within 1,000 feet of a premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015, the marijuana retailer located at that premises may remain at that location unless the Oregon Liquor Control Commission revokes the license of the marijuana retailer under section 30, chapter 1, Oregon Laws 2015.

(Segregated Premises)

SECTION 18. As is necessary to protect the public health and safety, the Oregon Liquor Control Commission may require a premises licensed under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, to be segregated into separate areas:

- (1) For conducting the activities permitted under each license if the licensee holds more than one license issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015; or
- (2) For conducting activities related to processing marijuana into different types of cannabinoid products, cannabinoid concentrates or cannabinoid extracts, if the licensee is a marijuana processor that processes marijuana into any combination of different types of products, concentrates and extracts.

(Marijuana Handlers)

SECTION 19. (1) An individual who performs work for or on behalf of a person who holds a license under section 22, chapter 1, Oregon Laws 2015, must have a valid permit issued by the Oregon Liquor Control Commission under section 20 of this 2015 Act if the individual participates in:

- (a) The possession, securing or selling of marijuana items at the premises for which the license has been issued;
 - (b) The recording of the possession, securing or selling of marijuana items at the premises for which the license has been issued; or
 - (c) The verification of any document described in section 16, chapter 1, Oregon Laws 2015.
- (2) A person who holds a license under section 22, chapter 1, Oregon Laws 2015, must verify that an individual has a valid permit issued under section 20 of this 2015 Act before

allowing the individual to perform any work described in subsection (1) of this section at the premises for which the license has been issued.

SECTION 20. (1) The Oregon Liquor Control Commission shall issue permits to qualified applicants to perform work described in section 19 of this 2015 Act. The commission shall adopt rules establishing:

- (a) The qualifications for performing work described in section 19 of this 2015 Act;
- (b) The term of a permit issued under this section;
- (c) Procedures for applying for and renewing a permit issued under this section; and
- (d) Reasonable application, issuance and renewal fees for a permit issued under this section.

(2)(a) The commission may require an individual applying for a permit under this section to successfully complete a course, made available by or through the commission, through which the individual receives training on:

- (A) Checking identification;
- (B) Detecting intoxication;
- (C) Handling marijuana items;
- (D) The content of sections 3 to 70, chapter 1, Oregon Laws 2015, and rules adopted under sections 3 to 70, chapter 1, Oregon Laws 2015; and
- (E) Any matter deemed necessary by the commission to protect the public health and safety.

(b) The commission or other provider of the course may charge a reasonable fee for the course.

(c) The commission may not require an individual to successfully complete the course more than once, except that:

(A) As part of a final order suspending a permit issued under this section, the commission may require a permit holder to successfully complete the course as a condition of lifting the suspension; and

(B) As part of a final order revoking a permit issued under this section, the commission shall require an individual to successfully complete the course prior to applying for a new permit.

(3) The commission shall conduct a criminal records check under ORS 181.534 on an individual applying for a permit under this section.

(4) Subject to the applicable provisions of ORS chapter 183, the commission may suspend, revoke or refuse to issue or renew a permit if the individual who is applying for or who holds the permit:

(a) Is convicted of a felony, except that the commission may not consider a conviction for the manufacture or delivery of marijuana if the date of the conviction is two or more years before the date of the application or renewal;

(b) Violates any provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or any rule adopted under sections 3 to 70, chapter 1, Oregon Laws 2015; or

(c) Makes a false statement to the commission.

(5) A permit issued under this section is a personal privilege and permits work described under section 19 of this 2015 Act only for the individual who holds the permit.

(Employment Relations)

SECTION 20a. (1) An employee of a person licensed under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, has the right to form, join and participate in the activities of a labor organization of the employee's own choosing for the purpose of securing representation and collective bargaining for matters concerning employment relations with the person licensed under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015.

(2) For purposes of this section, the provisions of ORS chapters 661 to 663 apply to relations between employees of persons licensed under section 19, 20, 21 and 22, chapter 1, Oregon Laws 2015, and employers that are licensed under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, in the same manner that those provisions apply to other employment relations.

SECTION 20b. (1) It is an unlawful employment practice for a person that holds a license under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, to discharge, demote, suspend or in any manner discriminate or retaliate against an employee of the person with regard to promotion, compensation or other terms, conditions or privileges of employment on the basis that the employee has in good faith reported information to the Oregon Liquor Control Commission that the employee believes is evidence of a violation of a provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or a rule adopted under a provision of sections 3 to 70, chapter 1, Oregon Laws 2015.

(2) This section is subject to enforcement under ORS chapter 659A.

SECTION 20c. In adopting rules related to industry best practices under sections 19, 20, 21 and 22, chapter 1, Oregon Laws 2015, the Oregon Liquor Control Commission may establish merit-based criteria for licensure or renewal of licensure, including, but not limited to, possession of a developed business plan, access to sufficient capital, offering living wages and benefits to employees, provision of training and apprenticeship, provision of community benefits, implementation of best environmental practices and implementation of consumer safety practices.

(Bonds and Liability Insurance)

SECTION 21. (1) Except as provided in subsection (2) of this section, the Oregon Liquor Control Commission may require a person that holds a license under section 22, chapter 1, Oregon Laws 2015, to maintain on file with the commission a bond with a corporate surety authorized to transact business in this state. The bond shall be in a form acceptable to the commission and shall be in an amount that the commission determines is reasonably affordable and available. The bond is payable to the commission if the licensee fails to pay any tax imposed on the retail sale of marijuana items as required by state law.

(2) In lieu of maintaining the bond required by subsection (1) of this section, a person that holds a license under section 22, chapter 1, Oregon Laws 2015, may deposit in a bank or trust company for the benefit of the commission an equivalent amount in cash, letters of credit recognized by the State Treasurer or negotiable securities of a character approved by the State Treasurer. Interest earned on deposited funds or securities shall accrue to the person that made the deposit.

SECTION 22. As is necessary to protect the public health and safety, the Oregon Liquor Control Commission may require a person that holds a license under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, to maintain general liability insurance in an amount that the commission determines is reasonably affordable and available for the purpose of protecting the person against damages resulting from a cause of action related to activities undertaken pursuant to the license.

(Seed to Sale Tracking System)

SECTION 23. (1) The Oregon Liquor Control Commission shall develop and maintain a system for tracking the transfer of marijuana items between licensed premises.

(2) The purposes of the system developed and maintained under this section include, but are not limited to:

(a) Preventing the diversion of marijuana items to criminal enterprises, gangs, cartels and other states;

- (b) Preventing persons from substituting or tampering with marijuana items;
 - (c) Ensuring an accurate accounting of the production, processing and sale of marijuana items;
 - (d) Ensuring that taxes are collected for the purpose of being distributed as described in section 44, chapter 1, Oregon Laws 2015;
 - (e) Ensuring that laboratory testing results are accurately reported; and
 - (f) Ensuring compliance with the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, rules adopted under the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, and any other law of this state that charges the commission with a duty, function or power related to marijuana.
- (3) The system developed and maintained under this section must be capable of tracking, at a minimum:
- (a) The propagation of immature marijuana plants and the production of marijuana by a marijuana producer;
 - (b) The processing of marijuana by a marijuana processor;
 - (c) The receiving, storing and delivering of marijuana items by a marijuana wholesaler;
 - (d) The sale of marijuana items by a marijuana retailer to a consumer;
 - (e) The purchase and sale of marijuana items between licensees, as permitted by sections 3 to 70, chapter 1, Oregon Laws 2015;
 - (f) The transfer of marijuana items between licensed premises;
 - (g) The collection of taxes imposed upon the retail sale of marijuana items under section 70 of this 2015 Act; and
 - (h) Any other information that the commission determines is reasonably necessary to accomplish the duties, functions and powers of the commission under sections 3 to 70, chapter 1, Oregon Laws 2015.

(Identification Requirement)

SECTION 24. Section 16, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 16. *[All licensees and licensee representatives, before selling or serving marijuana items to any person about whom there is any reasonable doubt of the person's having reached 21 years of age, shall require such person to produce one of the following pieces of identification:]*

(1) Subject to subsection (2) of this section, a licensee or licensee representative, before selling or providing a marijuana item to another person, must require the person to produce one of the following pieces of identification:

- [(1)] (a) The person's passport.
- [(2)] (b) The person's *[motor vehicle operator's]* driver license, whether issued in this state or by any other state, *[so]* as long as the license has a picture of the person.
- [(3)] (c) An identification card issued under ORS 807.400.
- [(4)] (d) A United States military identification card.
- [(5)] (e) Any other identification card issued by a state that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.

(2) The Oregon Liquor Control Commission may adopt rules exempting a licensee or licensee representative from this section.

(Protection of Persons Under 21 Years of Age)

SECTION 25. Section 49, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 49. *[(1) A person under 21 years of age may not attempt to purchase marijuana items.]*

[(2) Except as authorized by rule or as necessitated in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors.]

[(3) A person who violates subsection (1) or (2) of this section commits a Class B violation.]

[(4) In addition to and not in lieu of any other penalty established by law, a person under 21 years of age who violates subsection (1) of this section through misrepresentation of age may be required to perform community service and the court shall order that the person's driving privileges and right to apply for driving privileges be suspended for a period not to exceed one year. If a court has issued an order suspending driving privileges under this section, the court, upon petition of the person, may withdraw the order at any time the court deems appropriate. The court notification to the Department of Transportation under this subsection may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.]

[(5) If a person cited under this section is at least 13 years of age but less than 21 years of age at the time the person is found in default under ORS 153.102 or 419C.472 for failure to appear, in addition to and not in lieu of any other penalty, the court shall issue notice under ORS 809.220 to the department for the department to suspend the person's driving privileges under ORS 809.280 (4).]

[(6) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of the Oregon Liquor Control Commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of marijuana items to persons who are under 21 years of age.]

(1)(a) A person under 21 years of age may not attempt to purchase, purchase or acquire a marijuana item.

(b) For purposes of this subsection, purchasing a marijuana item includes accepting a marijuana item, and acquiring a marijuana item includes consuming a marijuana item, provided that the consumption of the marijuana item occurred no more than 24 hours before the determination that the person consumed the marijuana item.

(2) Except as authorized by the Oregon Liquor Control Commission by rule, or as necessary in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of persons under 21 years of age.

(3) A person who violates subsection (1) or (2) of this section commits a Class B violation.

(4) In addition to and not in lieu of any other penalty established by law, a court may require a person under 21 years of age who violates subsection (1) of this section through misrepresentation of age to perform community service, and the court may order that the person's driving privileges and right to apply for driving privileges be suspended for a period not to exceed one year. If a court has issued an order suspending driving privileges under this section, the court, upon petition of the person, may withdraw the order at any time the court deems appropriate. The court notification to the Department of Transportation under this subsection may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.

(5) If a person cited under this section is at least 13 years of age but less than 21 years of age at the time the person is found in default under ORS 153.102 or 419C.472 for failure to appear, in addition to and not in lieu of any other penalty, the court shall issue notice under ORS 809.220 to the department for the department to suspend the person's driving privileges under ORS 809.280 (4).

(6) In addition to and not in lieu of any penalty established by law, the court may order a person to undergo assessment and treatment if the person has previously been found to have violated this section.

(7) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of the commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of marijuana items to persons who are under 21 years of age.

(8) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of a licensee for the purpose of investigating possible violations

by employees of the licensee of laws prohibiting sales of marijuana items to persons who are under 21 years of age.

(9)(a) A person under 21 years of age is not in violation of, and is immune from prosecution under, this section if:

(A) The person contacted emergency medical services or a law enforcement agency in order to obtain medical assistance for another person who was in need of medical assistance because that person consumed a marijuana item and the evidence of the violation of this section was obtained as a result of the person's having contacted emergency medical services or a law enforcement agency; or

(B) The person was in need of medical assistance because the person consumed a marijuana item and the evidence of the violation of this section was obtained as a result of the person's having sought or obtained the medical assistance.

(b) Paragraph (a) of this subsection does not exclude the use of evidence obtained as a result of a person's having sought medical assistance in proceedings for crimes or offenses other than a violation of this section.

SECTION 26. The Oregon Liquor Control Commission may adopt rules establishing the circumstances under which the commission may require a marijuana retailer that holds a license issued under section 22, chapter 1, Oregon Laws 2015, to use an age verification scanner or any other equipment used to verify a person's age for the purpose of ensuring that the marijuana retailer does not sell marijuana items to a person under 21 years of age. The marijuana retailer may not retain any information obtained under this section after verifying a person's age. The marijuana retailer may not use any information obtained under this section for any purpose other than verifying a person's age.

SECTION 27. ORS 659A.403 is amended to read:

659A.403. (1) Except as provided in subsection (2) of this section, all persons within the jurisdiction of this state are entitled to the full and equal accommodations, advantages, facilities and privileges of any place of public accommodation, without any distinction, discrimination or restriction on account of race, color, religion, sex, sexual orientation, national origin, marital status or age if the individual is [18 years] of age, as described in this section, or older.

(2) Subsection (1) of this section does not prohibit:

(a) The enforcement of laws governing the consumption of alcoholic beverages by minors and the frequenting by minors of places of public accommodation where alcoholic beverages are served; [or]

(b) The enforcement of laws governing the use of marijuana items, as defined in section 5, chapter 1, Oregon Laws 2015, by persons under 21 years of age and the frequenting by persons under 21 years of age of places of public accommodation where marijuana items are sold; or

[(b)] (c) The offering of special rates or services to persons 50 years of age or older.

(3) It is an unlawful practice for any person to deny full and equal accommodations, advantages, facilities and privileges of any place of public accommodation in violation of this section.

SECTION 28. ORS 659A.409 is amended to read:

659A.409. Except as provided by laws governing the consumption of alcoholic beverages by minors [and], the use of marijuana items, as defined in section 5, chapter 1, Oregon Laws 2015, by persons under 21 years of age, the frequenting by minors of places of public accommodation where alcoholic beverages are served[,] and the frequenting by persons under 21 years of age of places of public accommodation where marijuana items are sold, and except for special rates or services offered to persons 50 years of age or older, it is an unlawful practice for any person acting on behalf of any place of public accommodation as defined in ORS 659A.400 to publish, circulate, issue or display, or cause to be published, circulated, issued or displayed, any communication, notice, advertisement or sign of any kind to the effect that any of the accommodations, advantages, facilities, services or privileges of the place of public accommodation will be refused, withheld from or denied to, or that any discrimination will be made against, any person on account of race, color,

religion, sex, sexual orientation, national origin, marital status or age if the individual is [18 years] of age, as described in this section, or older.

(Enforcement)

SECTION 29. In addition to any other liability or penalty provided by law, the Oregon Liquor Control Commission may impose for each violation of a provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or a rule adopted under a provision of sections 3 to 70, chapter 1, Oregon Laws 2015, a civil penalty that does not exceed \$5,000 for each violation. The commission shall impose civil penalties under this section in the manner provided by ORS 183.745. Moneys collected under this section shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.

SECTION 30. (1) An Oregon Liquor Control Commission regulatory specialist has the authority as provided in ORS 133.005 to 133.400, 133.450, 133.525 to 133.703, 133.721 to 133.739, 161.235 and 161.245, ORS chapter 153, chapter 743, Oregon Laws 1971, and sections 3 to 70, chapter 1, Oregon Laws 2015, to conduct inspections and investigations, make seizures, aid in prosecutions for offenses, issue citations for violations and otherwise enforce the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, any rule adopted under sections 3 to 70, chapter 1, Oregon Laws 2015, and any other law of this state that charges the commission with a duty, function or power related to marijuana, including enforcing any provision of a law or rule related to individuals who use false identification for purposes of purchasing or possessing a marijuana item or who engage in illegal activity on or near a licensed premises.

(2) A commission regulatory specialist may not:

(a) Be sworn in as a federal law enforcement official and act in that capacity while performing duties under this section.

(b) Carry a firearm.

(c) Conduct inspections and investigations of a primary residence or for purposes of ensuring compliance with section 6, chapter 1, Oregon Laws 2015.

(d) Except as provided in section 116 of this 2015 Act, conduct inspections and investigations for purposes of ensuring compliance with ORS 475.300 to 475.346.

SECTION 31. For purposes of sections 3 to 70, chapter 1, Oregon Laws 2015, the provisions of ORS 183.440 apply to subpoenas issued by the Oregon Liquor Control Commission and any authorized agent of the commission.

(Marijuana Control and Regulation Fund)

SECTION 32. The Marijuana Control and Regulation Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Marijuana Control and Regulation Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Oregon Liquor Control Commission to administer and enforce sections 3 to 70, chapter 1, Oregon Laws 2015.

(Land Use)

SECTION 33. Section 59, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 59. [(1) Cities and counties may adopt reasonable time, place and manner regulations of the nuisance aspects of establishments that sell marijuana to consumers if the city or county makes specific findings that the establishment would cause adverse effects to occur.]

[(2) The authority granted to cities and counties by this section is in addition to, and not in lieu of, the authority granted to a city or county under its charter and the statutes and Constitution of this state.]

- (1) For purposes of this section, "reasonable regulations" includes:
- (a) Reasonable conditions on the manner in which a marijuana producer licensed under section 19, chapter 1, Oregon Laws 2015, may produce marijuana;
 - (b) Reasonable conditions on the manner in which a marijuana processor licensed under section 20, chapter 1, Oregon Laws 2015, may process marijuana;
 - (c) Reasonable conditions on the manner in which a marijuana wholesaler licensed under section 21, chapter 1, Oregon Laws 2015, may sell marijuana at wholesale;
 - (d) Reasonable limitations on the hours during which a marijuana retailer licensed under section 22, chapter 1, Oregon Laws 2015, may operate;
 - (e) Reasonable conditions on the manner in which a marijuana retailer licensed under section 22, chapter 1, Oregon Laws 2015, may sell marijuana items;
 - (f) Reasonable requirements related to the public's access to a premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015; and
 - (g) Reasonable limitations on where a premises for which a license may be issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, may be located.
- (2) Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of businesses located at premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, if the premises are located in the area subject to the jurisdiction of the city or county, except that the governing body of a city or county may not adopt an ordinance that prohibits a premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015, from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015.
- (3) Regulations adopted under this section must be consistent with city and county comprehensive plans and zoning ordinances and applicable provisions of public health and safety laws.

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

- (a) A crop for the purposes of "farm use" as defined in ORS 215.203;
 - (b) A crop for purposes of a "farm" and "farming practice," both as defined in ORS 30.930;
 - (c) A product of farm use as described in ORS 308A.062; and
 - (d) The product of an agricultural activity for purposes of ORS 568.909.
- (2) Notwithstanding ORS chapters 195, 196, 197 and 215, the following are not permitted uses on land designated for exclusive farm use:
- (a) A new dwelling used in conjunction with a marijuana crop;
 - (b) A farm stand, as described in ORS 215.213 (1)(r) or 215.283 (1)(o), used in conjunction with a marijuana crop; and
 - (c) A commercial activity, as described in ORS 215.213 (2)(c) or 215.283 (2)(a), carried on in conjunction with a marijuana crop.
- (3) A county may allow the production of marijuana as a farm use on land zoned for farm or forest use in the same manner as the production of marijuana is allowed in exclusive farm use zones under this section and ORS 215.213 and 215.283.
- (4)(a) Prior to the issuance of a license under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, the Oregon Liquor Control Commission shall request a land use compatibility statement from the city or county that authorizes the land use. The land use compatibility statement must demonstrate that the requested license is for a land use that is allowable as a permitted or conditional use within the given zoning designation where the land is located. The commission may not issue a license if the land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.
- (b) A city or county that receives a request for a land use compatibility statement under this subsection must act on that request within 21 days of:
 - (A) Receipt of the request, if the land use is allowable as an outright permitted use; or

- (B) Final local permit approval, if the land use is allowable as a conditional use.
- (c) A city or county action concerning a land use compatibility statement under this subsection is not a land use decision for purposes of ORS chapter 195, 196, 197 or 215.

(Local Option Tax)

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

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

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

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

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

(Form and Style Amendments)

SECTION 35. Section 1, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 1. (1) The People of the State of Oregon declare that the purposes of sections 3 to 70, chapter 1, Oregon Laws 2015, [this Act] are:

(a) To eliminate the problems caused by the prohibition and uncontrolled manufacture, delivery[,] and possession of marijuana within this state;

(b) To protect the safety, welfare, health[,] and peace of the people of this state by prioritizing [the] this state's limited law enforcement resources in the most effective, consistent[,] and rational way;

(c) To permit persons licensed, controlled[,] and regulated[, and taxed] by this state to legally manufacture and sell marijuana to persons 21 years of age and older, subject to the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015 [this Act];

(d) To ensure that the State Department of Agriculture issues industrial hemp licenses and agricultural hemp seed production permits in accordance with [existing] state law; and

(e) To establish a comprehensive regulatory framework concerning marijuana under existing state law.

(2) The People of the State of Oregon intend that the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015 [this Act], together with [the] other provisions of [existing] state law, will:

(a) Prevent the distribution of marijuana to persons under 21 years of age;

(b) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs[,] and cartels;

(c) Prevent the diversion of marijuana from this state to other states;

(d) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(e) Prevent violence and the use of firearms in association with the cultivation and distribution of marijuana;

(f) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;

(g) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and

(h) Prevent the possession and use of marijuana on federal property.

SECTION 36. Section 2, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 2. [(1) Sections 3 to 70 of this Act are added to and made a part of the Oregon Revised Statutes.]

[(2) Section 71 is added to and made a part of ORS chapter 317.]

[(3)] (1) Section 72, **chapter 1, Oregon Laws 2015**, is added to and made a part of ORS chapter 475.

[(4)] (2) Section 73, **chapter 1, Oregon Laws 2015**, is added to and made a part of ORS chapter 811.

SECTION 37. Section 3, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 3. Sections 3 to 70, **chapter 1, Oregon Laws 2015**, [of this Act] shall be known and may be cited as the Control[, and Regulation[, and Taxation] of Marijuana [and Industrial Hemp] Act.

SECTION 38. Section 4, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 4. Sections 3 to 70, **chapter 1, Oregon Laws 2015**, [of this Act] may not be construed:

(1) To amend or affect [in any way any] state or federal law pertaining to employment matters;

(2) To amend or affect [in any way any] state or federal law pertaining to landlord-tenant matters;

(3) To prohibit a recipient of a federal grant or an applicant for a federal grant from prohibiting the manufacture, delivery, possession[, or use of marijuana to the extent necessary to satisfy federal requirements for the grant;

(4) To prohibit a party to a federal contract or a person applying to be a party to a federal contract from prohibiting the manufacture, delivery, possession[, or use of marijuana to the extent necessary to comply with the terms and conditions of the contract or to satisfy federal requirements for the contract;

(5) To require a person to violate a federal law;

(6) To exempt a person from a federal law or obstruct the enforcement of a federal law; or

(7) To amend or affect [in any way] the Oregon Medical Marijuana Act.

SECTION 39. Section 6, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 6. (1) Sections 7 to 44 and 60 to 62, **chapter 1, Oregon Laws 2015**, [of this Act] do not apply:

(a) To the production, processing[, keeping,] or storage of homegrown marijuana at a household by one or more persons 21 years of age and older, if the total **amount** of homegrown marijuana at the household does not exceed four marijuana plants and eight ounces of usable marijuana at [a given] any time.

(b) To the making, processing[, keeping,] or storage of homemade [marijuana] **cannabinoid** products at a household by one or more persons 21 years of age and older, if the total **amount** of homemade [marijuana] **cannabinoid** products at the household does not exceed [sixteen] **16** ounces in solid form at [a given] any time.

(c) To the making, processing[, keeping,] or storage of homemade [marijuana] **cannabinoid** products at a household by one or more persons 21 years of age and older, if the total **amount** of homemade [marijuana] **cannabinoid** products at the household does not exceed [seventy-two] **72** ounces in liquid form at [a given] any time.

(d) **To the making, processing or storage of homemade cannabinoid concentrates at a household by one or more persons 21 years of age or older, if the total amount of homemade cannabinoid concentrates at the household does not exceed 16 ounces at any time.**

[(d)] (e) To the delivery of not more than one ounce of homegrown marijuana at a [given] time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.

[(e)] (f) To the delivery of not more than [sixteen] **16** ounces of homemade [marijuana] **cannabinoid** products in solid form at a [given] time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.

[(f)] (g) To the delivery of not more than [seventy-two] **72** ounces of homemade [marijuana] **cannabinoid** products in liquid form at a [given] time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.

(h) **To the delivery of not more than 16 ounces of cannabinoid concentrates at a time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.**

(2) Sections 7 to 70, **chapter 1, Oregon Laws 2015** [of this Act]:

(a) Do not apply to the extent a person acts within the scope of and in compliance with the Oregon Medical Marijuana Act; [or] **and**

(b) Do not amend or affect [in any way the function,] duties, **functions** and powers of the Oregon Health Authority under the Oregon Medical Marijuana Act.

SECTION 40. Section 10, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 10. [No member of the Oregon Liquor Control Commission, the State Department of Agriculture, or the Oregon Health Authority may be sued for doing or omitting to do any act in the performance of duties as prescribed in sections 3 to 70 of this Act.] **A person may not sue the Oregon Liquor Control Commission or a member of the commission, the State Department of Agriculture or the Oregon Health Authority, or any employee of the commission, department or authority, for performing or omitting to perform any duty, function or power of the commission, department or authority set forth in sections 3 to 70, chapter 1, Oregon Laws 2015, or in any other law of this state requiring the commission, department or authority to perform a duty, function or power related to marijuana.**

SECTION 41. Section 11, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 11. (1) [Neither] The Oregon Liquor Control Commission, the State Department of Agriculture[, nor] **and** the Oregon Health Authority may **not** refuse to perform any duty under sections 3 to 70, **chapter 1, Oregon Laws 2015**, [of this Act] on the basis that manufacturing, distributing, dispensing, possessing[,] or using marijuana is prohibited by federal law.

(2) The commission may not revoke or refuse to issue or renew a license under sections 3 to 70, **chapter 1, Oregon Laws 2015**, [of this Act] on the basis that manufacturing, distributing, dispensing, possessing[,] or using marijuana is prohibited by federal law.

SECTION 42. Section 12, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 12. [No] A contract [shall be] **is not** unenforceable on the basis that manufacturing, distributing, dispensing, possessing[,] or using marijuana is prohibited by federal law.

SECTION 43. Section 13, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 13. Licensees and licensee representatives may produce, deliver[,] and possess marijuana items subject to the provisions of sections 3 to 70, **chapter 1, Oregon Laws 2015** [of this Act]. The production, delivery[,] and possession of marijuana items by a licensee or a licensee representative in compliance with sections 3 to 70, **chapter 1, Oregon Laws 2015**, [of this Act shall] **does not** constitute a criminal or civil offense under [Oregon law] **the laws of this state.**

SECTION 44. Section 14, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 14. [No] A licensee or licensee representative may **not** sell or deliver [any marijuana items to any] **a marijuana item to a person under 21 years of age.**

SECTION 45. Section 17, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 17. (1) [No] A person [shall] **may not** produce any piece of identification that would falsely indicate the person's age.

(2) If a piece of identification is offered as evidence in any administrative or criminal prosecution of a licensee or licensee representative for sale or service of [marijuana items] **a marijuana item** to a person [not having reached] **under** 21 years of age, the licensee or licensee representative [shall be found to have committed no crime or other wrong] **is not guilty of any offense prohibiting a person from selling or serving a marijuana item to a person under 21 years of age unless**

it is demonstrated that a reasonable person would have determined that the identification exhibited by the person under 21 years of age was altered or did not accurately describe the person under 21 years of age to whom the marijuana [items were] item was sold or served.

SECTION 46. Section 23, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 23. (1) The Oregon Liquor Control Commission has the right after 72 hours' notice to the owner or the agent of the owner to make an examination of the books and may at any time make an examination of the premises of any person licensed under sections 3 to 70, chapter 1, Oregon Laws 2015 [of this Act], for the purpose of determining compliance with sections 3 to 70, chapter 1, Oregon Laws 2015, [of this Act] and the rules of the commission.

(2) The commission [shall] may not require the books of [any] a licensee to be maintained on the premises of the licensee.

(3) This section does not authorize the commission to make an examination of the premises of a person registered under ORS 475.300 to 475.346.

SECTION 47. Section 24, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 24. The same person may hold one or more production licenses, one or more processor licenses, one or more wholesale licenses[,] and one or more retail licenses.

SECTION 48. Section 45, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 45. (1) A licensee or licensee representative may not import marijuana items [may not be imported] into this state or [exported] export marijuana items from this state [by any licensee or licensee representative].

(2) A violation of subsection (1) of this section is a:

(a) Class C felony, if the importation or exportation is for consideration; or

(b) Class A misdemeanor, if the importation or exportation is not for consideration.

SECTION 49. Section 46, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 46. [Marijuana items] A marijuana item may not be given as a prize, premium or consideration for a lottery, contest, game of chance [or], game of skill[,] or competition of any kind.

SECTION 50. Section 47, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 47. (1) A person may not sell, give or otherwise make available any marijuana [items] item to [any] a person who is visibly intoxicated.

(2)(a) A person who exercises control over private real property may not knowingly allow [any other] a person under the age of 21 years to consume marijuana items on the property, or allow any other person under the age of 21 years to remain on the property if the person under the age of 21 years consumes marijuana items on the property.

(b) This subsection:

(A) Applies only to a person who is present and in control of the location at the time the consumption occurs; and

(B) Does not apply to the owner of rental property, or the agent of an owner of rental property, unless the consumption occurs in the individual housing unit in which the owner or agent resides.

SECTION 51. Section 48, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 48. (1) [No] A person [shall] may not make false representations or statements to the Oregon Liquor Control Commission in order to induce or prevent action by the commission.

(2) [No] A licensee of the commission [shall] may not maintain a noisy, lewd, disorderly or insanitary establishment or supply impure or otherwise deleterious marijuana items.

(3) [No] A licensee of the commission [shall] may not misrepresent to a customer or to the public any marijuana items.

SECTION 52. Section 50, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 50. (1) [No marijuana items shall] A marijuana item may not be sold or offered for sale within this state unless [such marijuana items comply] the marijuana item complies with the minimum standards [fixed pursuant to law] prescribed by the statutory laws of this state.

[(2) The Oregon Liquor Control Commission may require a marijuana producer, marijuana processor, or marijuana wholesaler to provide a laboratory analysis demonstrating to the satisfaction of the commission that particular marijuana items comply with the minimum standards in this state.]

[(3) No marijuana items offered for sale within this state may be altered or tampered with in any way by any person not licensed to do so by the commission.]

[(4)] (2) The Oregon Liquor Control Commission may prohibit the sale of [any marijuana items] a marijuana item by a marijuana retailer for a reasonable period of time [while it is determining] for the purpose of determining whether the marijuana [items comply] item complies with the minimum standards [in this] prescribed by the statutory laws of this state.

SECTION 53. Section 51, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 51. (1) [No] A licensee [shall] may not use or allow the use of [any] a mark or label on the container of [any marijuana items which are] a marijuana item that is kept for sale[,] if the container does not precisely and clearly indicate the nature of [its] the container's contents or in any way might deceive [any] a customer as to the nature, composition, quantity, age or quality of [such] the marijuana [items] item.

(2) The Oregon Liquor Control Commission may prohibit [any] a licensee from selling any brand of marijuana [items which] item that in [its] the commission's judgment is deceptively labeled or branded as to content[,] or contains injurious or adulterated ingredients.

SECTION 54. Section 53, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 53. (1) Except for a licensed marijuana [producers and their] producer and the producer's licensee [representatives, no] representative, a licensee may not possess a mature marijuana plant.

(2) [No] A licensee may not sell a mature marijuana plant.

SECTION 55. Section 56, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 56. (1) [No] A person may not produce, process[, keep,] or store homegrown marijuana or homemade [marijuana] cannabinoid products or cannabinoid concentrates if the homegrown marijuana or homemade [marijuana] cannabinoid products or cannabinoid concentrates can be readily seen by normal unaided vision from a public place.

(2) A violation of subsection (1) of this section is a Class B violation.

SECTION 56. Section 57, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 57. [No] A person may not produce, process[, keep,] or store homemade [marijuana] cannabinoid extracts.

SECTION 57. Section 58, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 58. [Sections 3 to 70 of this Act,] The provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, are designed to operate uniformly throughout the state[, shall be] and are paramount and superior to and [shall] fully replace and supersede any [and all] municipal charter [enactments] amendment or local [ordinances] ordinance inconsistent with [it] the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015. [Such charters] Amendments and ordinances that are inconsistent with the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, [hereby] are repealed.

SECTION 58. Section 60, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 60. (1) The governing body of a city or a county, when a petition is filed as provided in this section, shall order an election on the question whether the operation of licensed premises [shall] should be prohibited in the city or county.

(2) Except as otherwise provided in [subsections (3), (4) and (5) of] this section, the requirements for preparing, circulating and filing a petition under this section:

(a) In the case of a city, [shall] must be as provided for an initiative petition under ORS 250.265 to 250.346.

(b) In the case of a county, [shall] must be as provided for an initiative petition under ORS 250.165 to 250.235.

(3) A petition under [subsection (2) of] this section:

(a) Must be filed not less than 60 days before the day of the election; and

(b) Must be signed by not less than 10 percent of the electors registered in the city or county.

(4) If ORS 250.155 makes ORS 250.165 to 250.235 inapplicable to a county or if ORS 250.255 makes ORS 250.265 to 250.346 inapplicable to a city, the requirements for preparing, circulating and

filing a petition under this section *[shall]* **must** be as provided for an initiative petition under the county or city charter or an ordinance adopted under the county or city charter.

(5) *[No]* A signature is **not** valid unless signed within 180 days before the petition is filed.

(6) An election under this section *[shall]* **must** be held at the time of the next statewide general election.

(7) An election under this section *[shall]* **must** be conducted under ORS chapters 246 to 260.

SECTION 59. Section 61, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 61. Section 60, chapter 1, Oregon Laws 2015, does *[of this Act shall]* not prevent any person residing in the county or city from having, for personal use, a marijuana *[items]* **item** purchased from a marijuana *[retailers duly]* **retailer** licensed under **section 22, chapter 1, Oregon Laws 2015** *[this Act]*.

SECTION 60. Section 63, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 63. The state police, sheriffs*[, constables and all]* **and** police officers *[within the State of Oregon shall]* **of this state may** enforce sections 3 to *[30 of this Act and sections 45 to]* 70, **chapter 1, Oregon Laws 2015**, *[of this Act]* and assist the Oregon Liquor Control Commission in detecting violations of sections 3 to *[30 of this Act and sections 45 to]* 70, **chapter 1, Oregon Laws 2015**, *[of this Act]* and apprehending offenders. *[Each such]* **An** enforcing officer *[having]* **who has** notice, knowledge or reasonable ground of suspicion of *[any]* a violation of sections 3 to *[30 of this Act or sections 45 to]* 70, **chapter 1, Oregon Laws 2015**, *[of this Act]* shall immediately notify the district attorney*[,]* and furnish the district attorney with names and addresses of any witnesses, or other information within the officer's knowledge, of *[such]* **the** violation.

SECTION 61. Section 64, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 64. (1) *[Whenever any]* **When** an officer arrests *[any]* a person for violation of sections 3 to *[30 of this Act or sections 45 to]* 70, **chapter 1, Oregon Laws 2015** *[of this Act]*, the officer may take into possession all marijuana items*[,]* and other property *[which]* **that** the person so arrested has in possession, or **that is** on the premises, *[which]* **that** is apparently being used in violation of sections 3 to *[30 of this Act or sections 45 to]* 70, **chapter 1, Oregon Laws 2015** *[of this Act]*.

(2) If *[the]* a person *[so]* arrested **as described in this section** is convicted, and *[it is found]* **the court finds** that the marijuana items*[,]* and other property *[has]* **have** been used in violation of *[Oregon law]* **the laws of this state:**

(a) The marijuana items *[shall]* **must** be forfeited to an appropriate state or local law enforcement agency*[,]* and *[shall]* **must** be delivered by the court or officer, **at the direction of the court,** to the law enforcement agency; and

(b) Subject to other applicable law, the other property *[shall]* **must** be forfeited to the Oregon Liquor Control Commission, and *[shall]* **must** be delivered by the court or officer to the commission.

(3) The commission is authorized to destroy or make such other disposition of any property it receives under *[paragraph (b) of]* subsection (2)(b) of this section as it considers to be in the public interest. In any such case, all such property, including *[lockers, chairs, tables, cash registers, music devices, gambling devices,]* furniture, furnishings, equipment and facilities for the storing, serving or using of marijuana items *[shall]* **must** be confiscated and forfeited to the state, and the clear proceeds *[shall]* **must** be deposited with the State Treasury in the Common School Fund *[in the manner provided in this section]*.

SECTION 62. Section 65, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 65. The county courts, district attorneys and municipal authorities, immediately upon the conviction of any licensee of the Oregon Liquor Control Commission of a violation of any provision of sections 3 to *[30 of this Act or sections 45 to]* 70, **chapter 1, Oregon Laws 2015**, *[of this Act]* or the violation of any other law of this state or ordinance of any municipality *[therein]* **in this state**, in which violation marijuana had any part, shall notify the commission *[thereof. Such officials]* **of the conviction. The county courts, district attorneys and municipal authorities** shall notify the commission of any acts, practices or other conduct of *[any such]* a licensee *[which]* **convicted as described in this section** that may be subversive of the general welfare or contrary

to the spirit of **sections 3 to 70, chapter 1, Oregon Laws 2015, [this Act]** and shall recommend such action on the part of the commission as will remove the evil.

SECTION 63. Section 66, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 66. Any room, house, building, boat, structure or place of any kind where marijuana items are sold, manufactured, bartered or given away in violation of *[Oregon law]* **the laws of this state**, or where persons are permitted to resort for the purpose of using marijuana items in violation of *[Oregon law]* **the laws of this state**, or any place where marijuana items are kept for sale, barter or gift in violation of *[Oregon law]* **the laws of this state**, and all marijuana items or property subject to confiscation under section 64, **chapter 1, Oregon Laws 2015, [of this Act]** kept and used in such a place, *[is]* **are a common nuisance. [Any] A person who maintains or assists in maintaining [such] the common nuisance or knowingly suffers or permits [such] the nuisance to exist in any place of which the person is the owner, manager or lessor, [shall be] is guilty of a violation of sections 3 to [30 of this Act and sections 45 to] 70, chapter 1, Oregon Laws 2015 [of this Act].**

SECTION 64. Section 67, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 67. If it is proved that the owner of *[any]* a building or premises knowingly has *[suffered the same to be used or]* **used the building or premises or allowed the building or premises to be occupied for the manufacture, sale or possession of marijuana items[,] contrary to the provisions of sections 3 to [30 of this Act or sections 45 to] 70, chapter 1, Oregon Laws 2015 [of this Act], [such] the building or premises are subject to a lien for, and may be sold to pay all fines and costs assessed against their occupants for, any violation of sections 3 to [30 of this Act or sections 45 to] 70, chapter 1, Oregon Laws 2015 [of this Act].** The lien *[shall]* **must be enforced immediately by civil action in any court [having] that has jurisdiction, by the district attorney of the county [wherein] in which the building or premises are located.**

SECTION 65. Section 68, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 68. In case of invasion, disaster, insurrection[,] or riot, or imminent danger *[thereof]* **of invasion, disaster, insurrection or riot**, the Governor may, for the duration of *[such] the* invasion, disaster, insurrection[,] or riot, or imminent danger *[thereof]*, immediately suspend without notice any license in the area involved granted under sections 3 to *[30 of this Act or sections 45 to]* 70, **chapter 1, Oregon Laws 2015 [of this Act].**

SECTION 66. Section 69, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 69. (1) Except where other punishment is specifically provided for in sections 3 to 70, **chapter 1, Oregon Laws 2015 [of this Act]**, violation of any provision of sections 3 to 70, **chapter 1, Oregon Laws 2015, [of this Act]** is a Class A misdemeanor.

[(2) A violation of subsection (1) of section 40 of this Act is a Class B misdemeanor.]

[(3)] (2) Subject to ORS 153.022, violation of *[any regulation promulgated]* **a rule adopted under section 7 (2)(d), chapter 1, Oregon Laws 2015, [paragraph (e) of subsection (2) of section 7 of this Act]** is a Class C violation.

SECTION 67. Section 70, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 70. If any *[sections, subsections, paragraphs, phrases, or words]* **section, subsection, paragraph, phrase or word** of sections 3 to 70, **chapter 1, Oregon Laws 2015, [of this Act shall be]** is held to be unconstitutional, void[,] or illegal, either on *[their]* its face or as applied, *[this shall]* **that holding does not affect the applicability, constitutionality[,] or legality of any other [sections, subsections, paragraphs, phrases, and words] section, subsection, paragraph, phrase or word** of sections 3 to 70, **chapter 1, Oregon Laws 2015 [of this Act]**. To that end, the sections, subsections, paragraphs, phrases[,] and words of sections 3 to 70, **chapter 1, Oregon Laws 2015, [of this Act]** are intended to be severable. It is hereby declared to be the intent of **the people of this state in adopting sections 3 to 70, chapter 1, Oregon Laws 2015, [of this Act]** that sections 3 to 70, **chapter 1, Oregon Laws 2015, [of this Act]** would have been adopted had such unconstitutional, void[,] or illegal sections, subsections, paragraphs, phrases[,] or words, if any, not been included in sections 3 to 70, **chapter 1, Oregon Laws 2015 [of this Act]**.

SECTION 68. Section 72, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 72. As used in the following statutes and any rule adopted *[thereunder]* **under the following statutes**, the term “controlled substance” *[shall]* **does not include marijuana:**

(1) ORS 475.125 *[to ORS]*, **475.135, 475.145, 475.155 and 475.165** *[(registration with the State Board of Pharmacy)]*.

(2) ORS 475.175 *[to ORS]*, **475.185, 475.188 and 475.190** *[(records)]*.

SECTION 69. Section 32, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 32. (1) As used in sections 31 to 44, **chapter 1, Oregon Laws 2015** *[of this Act]*, “sale” or “sold” means any transfer, exchange or barter, in any manner or by any means, for a consideration, and includes *[and means]* all sales made by any person. It includes a gift by a person engaged in the business of selling marijuana, for advertising, as a means of evading sections 31 to 44, **chapter 1, Oregon Laws 2015** *[of this Act]*, or for any other purpose.

(2) If a marijuana producer also holds one or more processor licenses, one or more wholesale licenses[,] or one or more retail licenses, a sale of marijuana flowers, marijuana leaves[,] or immature marijuana plants will be deemed to occur if and when the marijuana producer processes or takes any other action with respect to *[such]* **the** marijuana flowers, marijuana leaves[,] or immature marijuana plants for which a processor license, wholesale license[,] or retail license is required, regardless of whether the marijuana producer continues to own or possess the marijuana flowers, marijuana leaves[,] or immature marijuana plants.

SECTION 70. Section 33, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 33. (1) A tax is imposed upon the privilege of engaging in business as a marijuana producer at the rate of:

- (a) \$35 per ounce on all marijuana flowers;
- (b) \$10 per ounce on all marijuana leaves; and
- (c) \$5 per immature marijuana plant.

(2) The rates of tax imposed by this section upon marijuana flowers and marijuana leaves apply proportionately to quantities of less than one ounce.

(3) The tax imposed by this section *[shall]* **must** be measured by the quantities of marijuana flowers, marijuana leaves[,] and immature marijuana plants produced and sold by any marijuana producer. The taxes specified in this section *[shall]* **must** be levied and assessed to the marijuana producer at the time of the first sale of the marijuana flowers, marijuana leaves[,] and immature marijuana plants by the marijuana producer.

(4) For reporting periods beginning on or after July 1, 2017, the rates of tax under subsection (1) of this section *[shall]* **must** be adjusted for each biennium according to the cost-of-living adjustment for the calendar year. The Oregon Liquor Control Commission shall recompute the rates for each biennium by adding to each rate in subsection (1) of this section the product obtained by multiplying the rate by a factor that is equal to 0.25 multiplied by the percentage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31, 2015.

(5) The commission shall regularly review the rates of tax under subsection (1) of this section and make recommendations to the Legislative Assembly regarding appropriate adjustments to the rates that will further the purposes of:

- (a) Maximizing net revenue;
- (b) Minimizing the illegal marijuana industry under *[Oregon law]* **the laws of this state;** and
- (c) Discouraging the use of marijuana by minors under 21 years of age.

SECTION 71. Section 34, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 34. (1) The privilege tax imposed by section 33, **chapter 1, Oregon Laws 2015**, *[of this Act shall]* **must** be paid to the Oregon Liquor Control Commission. The taxes covering the periods for which statements are required to be rendered by section 35, **chapter 1, Oregon Laws 2015**, *[of this Act shall]* **must** be paid before the time for filing such statements expires. If not so paid, a penalty of 10 percent and interest at the rate of one percent a month or fraction of a month

[shall] must be added and collected. The commission may refund any tax payment imposed upon or paid in error by any licensee.

(2) The commission may waive any interest or penalty assessed to a marijuana producer subject to the tax imposed under section 33, **chapter 1, Oregon Laws 2015**, [of this Act] if the commission, in its discretion, determines that the marijuana producer has made a good faith attempt to comply with the requirements of sections 31 to 44, **chapter 1, Oregon Laws 2015** [of this Act].

(3) Except in the case of fraud, the commission may not assess any interest or penalty on any tax due under section 33, **chapter 1, Oregon Laws 2015**, [of this Act] following the expiration of 36 months from the date on which was filed the statement required under section 35, **chapter 1, Oregon Laws 2015**, [of this Act] reporting the quantities of marijuana flowers, marijuana leaves[,] and immature marijuana plants upon which the tax is due.

(4) A marijuana producer may appeal a tax imposed under section 33, **chapter 1, Oregon Laws 2015**, [of this Act] in the manner of a contested case under ORS chapter 183.

SECTION 72. Section 35, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 35. On or before the 20th day of each month, every marijuana producer shall file with the Oregon Liquor Control Commission a statement of the quantities of marijuana flowers, marijuana leaves[,] and immature marijuana plants sold by the marijuana producer during the preceding calendar month.

SECTION 73. Section 36, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 36. If any marijuana producer fails, neglects or refuses to file a statement required by section 35, **chapter 1, Oregon Laws 2015**, [of this Act] or files a false statement, the Oregon Liquor Control Commission shall estimate the quantities of marijuana flowers, marijuana leaves[,] and immature marijuana plants sold by the marijuana producer and assess the privilege taxes [thereon] on the estimated quantities. The marijuana producer [shall] must be estopped from complaining of the quantities so estimated.

SECTION 74. Section 37, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 37. The privilege tax required to be paid by section 33, **chapter 1, Oregon Laws 2015**, [of this Act] constitutes a lien upon, and has the effect of an execution duly levied against, any and all property of the marijuana producer, attaching at the time the marijuana flowers, marijuana leaves[,] and immature marijuana plants subject to the tax were sold, and remaining until the tax is paid. The lien created by this section is paramount to all private liens or encumbrances.

SECTION 75. Section 38, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 38. Every marijuana producer shall keep a complete and accurate record of all sales of marijuana flowers, marijuana leaves[,] and immature marijuana plants, and a complete and accurate record of the number of ounces of marijuana flowers produced, the number of ounces of marijuana leaves produced, the number of immature marijuana plants produced[,] and the dates of production. The records [shall] must be in such form and contain such other information as the Oregon Liquor Control Commission may prescribe.

SECTION 76. Section 39, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 39. (1) The Oregon Liquor Control Commission may, at any time, examine the books and records of any marijuana producer[,] and may appoint auditors, investigators and other employees that the commission considers necessary to enforce its powers and perform its duties under sections 31 to 44, **chapter 1, Oregon Laws 2015** [of this Act].

(2) Every marijuana producer shall maintain and keep for two years all records, books and accounts required by sections 31 to 44, **chapter 1, Oregon Laws 2015**, [of this Act] and shall provide copies of those records, books and accounts to the commission when requested by the commission.

SECTION 77. Section 40, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 40. (1) [No] A marijuana producer [shall] may not:

(a) Fail to pay the privilege tax prescribed in section 33, **chapter 1, Oregon Laws 2015**, [of this Act] when it is due; or

(b) Falsify the statement required by section 35, **chapter 1, Oregon Laws 2015** [of this Act].

(2) [No] A person [shall] may not:

(a) Refuse to permit the Oregon Liquor Control Commission or any of its representatives to make an inspection of the books and records authorized by sections 38 and 39, **chapter 1, Oregon Laws 2015** [of this Act];

(b) Fail to keep books of account prescribed by the commission or required by sections 31 to 44, **chapter 1, Oregon Laws 2015** [of this Act];

(c) Fail to preserve the books for two years for inspection of the commission; or

(d) Alter, cancel or obliterate entries in the books of account for the purpose of falsifying any record required by sections 31 to 44, **chapter 1, Oregon Laws 2015**, [of this Act] to be made, maintained or preserved.

SECTION 78. Section 41, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 41. Sections 31 to 44, **chapter 1, Oregon Laws 2015**, [of this Act] do not apply to commerce with foreign nations or commerce with the several states, except [in so far] insofar as the same may be permitted under the Constitution and laws of the United States.

SECTION 79. Section 43, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 43. (1) All money collected by the Oregon Liquor Control Commission under sections 31 to 44, **chapter 1, Oregon Laws 2015**, [3 to 70 of this Act shall] **must** be remitted to the State Treasurer, who shall credit it to a suspense account of the commission. Whenever the commission determines that moneys have been received by it in excess of the amount legally due and payable to the commission or that it has received money [to] in which it has no legal interest, or that any license fee or deposit is properly refundable, the commission is authorized and directed to refund such money by check drawn upon the State Treasurer and charged to the suspense account of the commission. After withholding refundable license fees and such sum, not to exceed \$250,000, as it considers necessary as a revolving fund for a working cash balance for the purpose of paying travel expenses, advances, other miscellaneous bills and extraordinary items [which] **that** are payable in cash immediately upon presentation, the commission shall direct the State Treasurer to transfer the money remaining in the suspense account to the Oregon Marijuana Account established under section 44, **chapter 1, Oregon Laws 2015** [of this Act]. Moneys in the Oregon Marijuana Account are continuously appropriated to the commission to be distributed and used as required or allowed by [Oregon law] **the laws of this state.**

(2) All necessary expenditures of the commission incurred in carrying out sections 3 to 70, **chapter 1, Oregon Laws 2015** [of this Act], including [such] sums necessary to reimburse the \$250,000 revolving fund, [shall] **must** be paid from the Oregon Marijuana Account.

OREGON MEDICAL MARIJUANA ACT OPERATIVE MARCH 1, 2016

(Definitions)

SECTION 80. ORS 475.302 is amended to read:

475.302. As used in ORS 475.300 to 475.346:

(1) "Attending physician" means a physician licensed under ORS chapter 677 who has primary responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.

[(2) "Authority" means the Oregon Health Authority.]

(2) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.

(3) "Cannabinoid concentrate" means a substance obtained by separating cannabinoids from marijuana by:

(a) A mechanical extraction process;

(b) A chemical extraction process using a nonhydrocarbon-based solvent, such as vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol;

(c) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or

(d) Any other process identified by the Oregon Health Authority, in consultation with the Oregon Liquor Control Commission, by rule.

(4) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried leaves or flowers of marijuana have been incorporated.

(5) "Cannabinoid extract" means a substance obtained by separating cannabinoids from marijuana by:

(a) A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane;

(b) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or

(c) Any other process identified by the Oregon Health Authority, in consultation with the Oregon Liquor Control Commission, by rule.

[(3)] (6) "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]* those 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 seizures caused by epilepsy; or

(E) Persistent muscle spasms, including 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 Oregon Health Authority by rule or approved by the authority pursuant to a petition *[submitted]* filed under ORS 475.334.

[(4)(a)] (7)(a) "Delivery" has the meaning given that term in ORS 475.005.

(b) "Delivery" does not include transfer of:]

[(A)] marijuana by a registry identification cardholder to another registry identification cardholder if no consideration is paid for the transfer[;].

[(B)] Usable marijuana or immature marijuana plants from a registry identification cardholder, the designated primary caregiver of a registry identification cardholder or a marijuana grow site to a medical marijuana facility registered under ORS 475.314; or]

[(C)] Usable marijuana or immature marijuana plants from a medical marijuana facility registered under ORS 475.314 to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder.]

[(5)] (8)(a) "Designated primary caregiver" means an individual:

(A) Who is 18 years of age or older;

(B) Who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition; and

(C) Who is designated as *[such on that]* the person responsible for managing the well-being of a person who has been diagnosed with a debilitating medical condition on that person's application for a registry identification card or in other written notification submitted to the authority.

(b) "Designated primary caregiver" does not include *[the]* a person's attending physician.

[(6)] "Marijuana" has the meaning given that term in ORS 475.005.]

(9) "High heat" means a temperature exceeding 180 degrees.

(10) "Immature marijuana plant" means a marijuana plant that is not flowering.

(11)(a) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(b) "Marijuana" does not include industrial hemp, as defined in ORS 571.300.

[(7)] (12) "Marijuana grow site" means a location registered under ORS 475.304 where marijuana is produced for use by a registry identification cardholder.

(13) "Marijuana processing site" means a marijuana processing site registered under section 85 of this 2015 Act or a site for which an applicant has submitted an application for registration under section 85 of this 2015 Act.

(14) "Mature marijuana plant" means a marijuana plant that is not an immature marijuana plant.

(15)(a) "Medical cannabinoid product" means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to a person's skin or hair, that contains cannabinoids or dried leaves or flowers of marijuana.

(b) "Medical cannabinoid product" does not include:

(A) Usable marijuana by itself;

(B) A cannabinoid concentrate by itself;

(C) A cannabinoid extract by itself; or

(D) Industrial hemp, as defined in ORS 571.300.

(16) "Medical marijuana dispensary" means a medical marijuana dispensary registered under ORS 475.314 or a site for which an applicant has submitted an application for registration under ORS 475.314.

[(8)] (17) "Medical use of marijuana" means the production, processing, possession, delivery[, distribution] or administration of marijuana, or use of paraphernalia used to administer marijuana, [as necessary for the exclusive benefit of a person] to mitigate the symptoms or effects of [the person's] a debilitating medical condition.

[(9)] "Production" has the meaning given that term in ORS 475.005.]

(18) "Person designated to produce marijuana by a registry identification cardholder" means a person designated to produce marijuana by a registry identification cardholder under ORS 475.304 who produces marijuana for a registry identification cardholder at an address other than the address where the registry identification cardholder resides or at an address where more than 12 mature marijuana plants are produced.

(19) "Process" means the compounding or conversion of marijuana into medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts.

(20) "Production" means:

(a) Planting, cultivating, growing, trimming or harvesting marijuana; or

(b) Drying marijuana leaves or flowers.

[(10)] (21) "Registry identification card" means a document issued by the Oregon Health Authority under ORS 475.309 that identifies a person authorized to engage in the medical use of marijuana and, if the person has a designated primary caregiver under ORS 475.312, the person's designated primary caregiver.

(22) "Registry identification cardholder" means a person to whom a registry identification card has been issued under ORS 475.309.

[(11)] (23)(a) "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 as allowed in ORS 475.300 to 475.346] marijuana.

(b) "Usable marijuana" does not include:

(A) The seeds, stalks and roots of [the plant.] marijuana; or

(B) Waste material that is a by-product of producing marijuana.

[(12)] (24) "Written documentation" means a statement signed by the attending physician of a person diagnosed with a debilitating medical condition or copies of the person's relevant medical records.

**(Registry Identification Cardholders
and Designated Primary Caregivers)**

SECTION 80a. ORS 475.309 is amended to read:

475.309. [(1) Except as provided in ORS 475.316, 475.320 and 475.342, a person engaged in or assisting in the medical use of marijuana is excepted from the criminal laws of the state for possession, delivery or production of marijuana, aiding and abetting another in the possession, delivery or production of marijuana or any other criminal offense in which possession, delivery or production of marijuana is an element if the following conditions have been satisfied:]

[(a)(A) The person holds a registry identification card issued pursuant to this section, has applied for a registry identification card pursuant to subsection (9) of this section, is the designated primary caregiver of the cardholder or applicant, or is the person responsible for a marijuana grow site that is producing marijuana for the cardholder and is registered under ORS 475.304; and]

[(B) The person who has a debilitating medical condition, the person's primary caregiver and the person responsible for a marijuana grow site that is producing marijuana for the cardholder and is registered under ORS 475.304 are collectively in possession of, delivering or producing marijuana for medical use in amounts allowed under ORS 475.320; or]

[(b) The person is responsible for or employed by a medical marijuana facility registered under ORS 475.314 and does not commit any of the acts described in this subsection anywhere other than at the medical marijuana facility.]

[(2) The Oregon Health Authority shall establish and maintain a program for the issuance of registry identification cards to persons who meet the requirements of this section. Except as provided in subsection (3) of this section, the authority shall issue a registry identification card to any person who pays a fee in the amount established by the authority and provides the following:]

[(a) Valid, written documentation from the person's attending physician stating that the person has been diagnosed with a debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the person's debilitating medical condition;]

[(b) The name, address and date of birth of the person;]

[(c) The name, address and telephone number of the person's attending physician;]

[(d) The name and address of the person's designated primary caregiver, if the person has designated a primary caregiver at the time of application; and]

[(e) A written statement that indicates whether the marijuana used by the cardholder will be produced at a location where the cardholder or designated primary caregiver is present or at another location.]

[(3) The authority shall issue a registry identification card to a person who is under 18 years of age if the person submits the materials required under subsection (2) of this section, and the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age signs a written statement that:]

[(a) The attending physician of the person under 18 years of age has explained to that person and to the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age the possible risks and benefits of the medical use of marijuana;]

[(b) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age consents to the use of marijuana by the person under 18 years of age for medical purposes;]

[(c) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to serve as the designated primary caregiver for the person under 18 years of age; and]

[(d) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to control the acquisition of marijuana and the dosage and frequency of use by the person under 18 years of age.]

[(4) A person applying for a registry identification card pursuant to this section may submit the information required in this section to a county health department for transmittal to the authority. A county health department that receives the information pursuant to this subsection shall transmit the information to the authority within five days of receipt of the information. Information received by a

county health department pursuant to this subsection shall be confidential and not subject to disclosure, except as required to transmit the information to the authority.]

[(5)(a) The authority shall verify the information contained in an application submitted pursuant to this section and shall approve or deny an application within thirty days of receipt of the application.]

[(b) In addition to the authority granted to the authority under ORS 475.316 to deny an application, the authority may deny an application for the following reasons:]

[(A) The applicant did not provide the information required pursuant to this section to establish the applicant's debilitating medical condition and to document the applicant's consultation with an attending physician regarding the medical use of marijuana in connection with such condition, as provided in subsections (2) and (3) of this section;]

[(B) The authority determines that the information provided was falsified; or]

[(C) The applicant has been prohibited by a court order from obtaining a registry identification card.]

[(c) Denial of a registry identification card shall be considered a final authority action, subject to judicial review. Only the person whose application has been denied, or, in the case of a person under the age of 18 years of age whose application has been denied, the person's parent or legal guardian, shall have standing to contest the authority's action.]

[(d) Any person whose application has been denied may not reapply for six months from the date of the denial, unless so authorized by the authority or a court of competent jurisdiction.]

[(6)(a) If the authority has verified the information submitted pursuant to subsections (2) and (3) of this section and none of the reasons for denial listed in subsection (5)(b) of this section is applicable, the authority shall issue a serially numbered registry identification card within five days of verification of the information. The registry identification card shall state:]

[(A) The cardholder's name, address and date of birth;]

[(B) The date of issuance and expiration date of the registry identification card;]

[(C) The name and address of the person's designated primary caregiver, if any;]

[(D) Whether the marijuana used by the cardholder will be produced at a location where the cardholder or designated primary caregiver is present or at another location; and]

[(E) Any other information that the authority may specify by rule.]

[(b) When the person to whom the authority has issued a registry identification card pursuant to this section has specified a designated primary caregiver, the authority shall issue an identification card to the designated primary caregiver. The primary caregiver's registry identification card shall contain the information provided in paragraph (a) of this subsection.]

[(7)(a) A person who possesses a registry identification card shall:]

[(A) Notify the authority of any change in the person's name, address, attending physician or designated primary caregiver.]

[(B) If applicable, notify the designated primary caregiver of the cardholder, the person responsible for the marijuana grow site that produces marijuana for the cardholder and any person responsible for a medical marijuana facility that transfers usable marijuana or immature marijuana plants to the cardholder under ORS 475.314 of any change in status including, but not limited to:]

[(i) The assignment of another individual as the designated primary caregiver of the cardholder;]

[(ii) The assignment of another individual as the person responsible for a marijuana grow site producing marijuana for the cardholder; or]

[(iii) The end of the eligibility of the cardholder to hold a valid registry identification card.]

[(C) Annually submit to the authority:]

[(i) Updated written documentation from the cardholder's attending physician of the person's debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the person's debilitating medical condition; and]

[(ii) The name of the person's designated primary caregiver if a primary caregiver has been designated for the upcoming year.]

[(b) If a person who possesses a registry identification card fails to comply with this subsection, the card shall be deemed expired. If a registry identification card expires, the identification card of any designated primary caregiver of the cardholder shall also expire.]

[(8)(a) A person who possesses a registry identification card pursuant to this section and who has been diagnosed by the person's 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 person's debilitating medical condition shall return the registry identification card and any other associated Oregon Medical Marijuana Program cards to the authority within 30 calendar days of notification of the diagnosis or notification of the contraindication.]

[(b) If, due to circumstances beyond the control of the registry identification cardholder, a cardholder is unable to obtain a second medical opinion about the cardholder's continuing eligibility to use medical marijuana before the 30-day period specified in paragraph (a) of this subsection has expired, the authority may grant the cardholder additional time to obtain a second opinion before requiring the cardholder to return the registry identification card and any associated cards.]

[(9) A person who has applied for a registry identification card pursuant to this section but whose application has not yet been approved or denied, and who is contacted by any law enforcement officer in connection with the person's administration, possession, delivery or production of marijuana for medical use may provide to the law enforcement officer a copy of the written documentation submitted to the authority pursuant to subsection (2) or (3) of this section and proof of the date of mailing or other transmission of the documentation to the authority. This documentation shall have the same legal effect as a registry identification card until such time as the person receives notification that the application has been approved or denied.]

[(10)(a) A registry identification cardholder has the primary responsibility of notifying the designated primary caregiver, the person responsible for the marijuana grow site that produces marijuana for the cardholder and any person responsible for a medical marijuana facility that transfers usable marijuana or immature marijuana plants to the cardholder under ORS 475.314 of any change in status of the cardholder.]

[(b) If the authority is notified by the cardholder that a primary caregiver or person responsible for a marijuana grow site has changed, the authority shall notify the primary caregiver or the person responsible for the marijuana grow site by mail at the address of record confirming the change in status and informing the caregiver or person responsible for the marijuana grow site that their card is no longer valid and must be returned to the authority.]

[(11) The authority shall revoke the registry identification card of a cardholder if a court has issued an order that prohibits the cardholder from participating in the medical use of marijuana or otherwise participating in the Oregon Medical Marijuana Program under ORS 475.300 to 475.346. The cardholder shall return the registry identification card to the authority within seven calendar days of notification of the revocation. If the cardholder is a patient, the patient shall return the patient's card and all other associated Oregon Medical Marijuana Program cards.]

[(12) The authority shall revoke the registration of a medical marijuana facility registered under ORS 475.314 if a court has issued an order that prohibits the person responsible for the medical marijuana facility from participating in the Oregon Medical Marijuana Program under ORS 475.300 to 475.346.]

[(13) The authority and employees and agents of the authority acting within the course and scope of their employment are immune from any civil liability that might be incurred or imposed for the performance of or failure to perform duties required by this section.]

(1) The Oregon Health Authority shall establish a program for the issuance of registry identification cards to applicants who meet the requirements of this section.

(2) The authority shall issue a registry identification card to an applicant who is 18 years of age or older if the applicant pays a fee in an amount established by the authority by rule and submits to the authority an application containing the following information:

(a) Written documentation from the applicant's attending physician stating that the attending physician has diagnosed the applicant as having a debilitating medical condition and

that the medical use of marijuana may mitigate the symptoms or effects of the applicant's debilitating medical condition;

(b) The name, address and date of birth of the applicant;

(c) The name, address and telephone number of the applicant's attending physician;

(d) Proof of residency, as required by the authority by rule;

(e) The name and address of the applicant's designated primary caregiver, if the applicant is designating a primary caregiver under ORS 475.312; and

(f) The information described in ORS 475.304 (2), if the applicant is applying to produce marijuana or designate another person under ORS 475.304 to produce marijuana.

(3)(a) The authority shall issue a registry identification card to an applicant who is under 18 years of age if:

(A) The applicant pays the fee and submits the application described in subsection (2) of this section; and

(B) The custodial parent or legal guardian who is responsible for the health care decisions of the applicant signs and submits to the authority a written statement that:

(i) The applicant's attending physician has explained to the applicant and to the custodial parent or legal guardian the possible risks and benefits of the medical use of marijuana;

(ii) The custodial parent or legal guardian consents to the medical use of marijuana by the applicant;

(iii) The custodial parent or legal guardian agrees to serve as the applicant's designated primary caregiver; and

(iv) The custodial parent or legal guardian agrees to control the acquisition, dosage and frequency of the medical use of marijuana by the applicant.

(b) An applicant who is under 18 years of age may not apply to produce marijuana under subsection (2)(f) of this section.

(4) The authority shall approve or deny an application within 30 days after receiving the application.

(5)(a) If the authority approves an application, the authority shall issue a serially numbered registry identification card to the applicant within five days after approving the application. The registry identification card must include the following information:

(A) The registry identification cardholder's name, address and date of birth;

(B) The issuance date and expiration date of the registry identification card;

(C) If the registry identification cardholder designated a primary caregiver under ORS 475.312, the name and address of the registry identification cardholder's designated primary caregiver; and

(D) Any other information required by the authority by rule.

(b) If the registry identification cardholder designated a primary caregiver under ORS 475.312, the authority shall issue an identification card to the designated primary caregiver. The identification card must contain the information required by paragraph (a) of this subsection.

(6) A registry identification cardholder shall:

(a) In a form and manner prescribed by the authority, notify the authority of any change concerning the registry identification cardholder's:

(A) Name, address or attending physician;

(B) Designated primary caregiver, including the designation of a primary caregiver made at a time other than at the time of applying for or renewing a registry identification card; or

(C) Person responsible for a marijuana grow site, including the designation of a person responsible for a marijuana grow site made at a time other than at the time of applying for or renewing a registry identification card.

(b) Annually renew the registry identification card by paying a fee in an amount established by the authority by rule and submitting to the authority an application that contains the following information:

(A) Updated written documentation from the registry identification cardholder's attending physician stating that the registry identification cardholder still has a debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the registry identification cardholder's debilitating medical condition;

(B) The information described in subsection (2)(b) to (f) of this section; and

(C) If the registry identification cardholder is under 18 years of age, a statement signed by the custodial parent or legal guardian of the registry identification cardholder that meets the requirements of subsection (3) of this section.

(7)(a) If the registry identification cardholder's attending physician determines that the registry identification cardholder no longer has a debilitating medical condition or determines that the medical use of marijuana is contraindicated for the registry identification cardholder's debilitating medical condition, the registry identification cardholder shall return the registry identification card to the authority within 30 calendar days after receiving notice of the determination.

(b) If, because of circumstances beyond the control of the registry identification cardholder, a registry identification cardholder is unable to obtain a second medical opinion about the registry identification cardholder's continuing eligibility for the medical use of marijuana before having to return the registry identification card to the authority, the authority may grant the registry identification cardholder additional time to obtain a second medical opinion.

(8)(a) The authority may deny an application for a registry identification card or an application to renew a registry identification card, or may suspend or revoke a registry identification card, if:

(A) The applicant or registry identification cardholder does not provide the information required by this section;

(B) The authority determines that the applicant or registry identification cardholder provided false information; or

(C) The authority determines that the applicant or registry identification cardholder violated a provision of ORS 475.300 to 475.346 or a rule adopted under ORS 475.300 to 475.346.

(b) If a registry identification card is revoked, any associated identification card issued under subsection (5)(b) of this section, or marijuana grow site registration card issued under ORS 475.304 (6), shall also be revoked.

(c) A person whose application is denied, or whose registry identification card is revoked, under this subsection may not reapply for a registry identification card for six months from the date of the denial or revocation unless otherwise authorized by the authority.

(9)(a) The authority may deny a designation of a primary caregiver made under ORS 475.312, or suspend or revoke an associated identification card issued under subsection (5)(b) of this section, if the authority determines that the designee or the registry identification cardholder violated a provision of ORS 475.300 to 475.346 or a rule adopted under ORS 475.300 to 475.346.

(b) A person whose designation has been denied, or whose identification card has been revoked, under this subsection may not be designated as a primary caregiver under ORS 475.312 for six months from the date of the denial or revocation unless otherwise authorized by the authority.

(10) Notwithstanding subsection (2) or (6)(b) of this section, if an applicant for a registry identification card, or a registry identification cardholder applying for renewal of a registry identification card, submits to the authority proof of having served in the Armed Forces of the United States and of having been diagnosed with post-traumatic stress disorder, the au-

thority may not impose a fee that is greater than \$20 for the issuance or renewal of the registry identification card.

SECTION 80b. ORS 475.312 is amended to read:

475.312. (1) If a person who *[possesses a registry identification card issued pursuant to ORS 475.309]* is applying for a registry identification card under ORS 475.309, or who is a registry identification cardholder, chooses to *[have a designated]* designate, or to change the designation of, a primary caregiver, the person must *[designate the primary caregiver by including]* include the primary caregiver's name and address:

- (a) On the person's application for a registry identification card;
[(b) In the annual updated information required under ORS 475.309; or]
- (b) On the person's application to renew a registry identification card; or
- (c) In a *[written,]* form and manner prescribed by the authority, in a signed statement *[submitted to]* notifying the Oregon Health Authority of the designation.

(2) A *[person described in this section]* registry identification cardholder may have only one designated primary caregiver at any given time.

(3) If a registry identification cardholder who previously designated a primary caregiver chooses to designate a different primary caregiver, the authority shall notify the previous designee of the new designation and issue an identification card to the newly designated primary caregiver.

SECTION 80c. The amendments to ORS 475.309 and 475.312 by sections 80a and 80b of this 2015 Act apply to:

- (1) Applications received by the Oregon Health Authority for a registry identification card on or after the operative date specified in section 179 of this 2015 Act;
- (2) Applications received by the authority to renew a registry identification card on or after the operative date specified in section 179 of this 2015 Act; and
- (3) Registry identification cards updated by the authority on or after the operative date specified in section 179 of this 2015 Act.

(Medical Marijuana Producers)

SECTION 81. ORS 475.304 is amended to read:

475.304. *[(1) The Oregon Health Authority shall establish by rule a marijuana grow site registration system to authorize production of marijuana by a registry identification cardholder, a designated primary caregiver who grows marijuana for the cardholder or a person who is responsible for a marijuana grow site. The marijuana grow site registration system adopted must require a registry identification cardholder to submit an application to the authority that includes:]*

- [(a) The name of the person responsible for the marijuana grow site;]*
- [(b) The address of the marijuana grow site;]*
- [(c) The registry identification card number of the registry cardholder for whom the marijuana is being produced; and]*
- [(d) Any other information the authority considers necessary.]*

[(2) The authority shall issue a marijuana grow site registration card to a registry identification cardholder who has met the requirements of subsection (1) of this section.]

[(3) A person who has been issued a marijuana grow site registration card under this section must display the registration card at the marijuana grow site at all times when marijuana is being produced.]

[(4) A marijuana grow site registration card must be obtained and posted for each registry identification cardholder for whom marijuana is being produced at a marijuana grow site.]

[(5) All usable marijuana, plants, seedlings and seeds associated with the production of marijuana for a registry identification cardholder by a person responsible for a marijuana grow site are the property of the registry identification cardholder and must be provided to the registry identification

cardholder, or, if the marijuana is usable marijuana or an immature marijuana plant, transferred to a medical marijuana facility registered under ORS 475.314, upon request.]

[(6)(a) The authority shall conduct a criminal records check under ORS 181.534 of any person whose name is submitted as a person responsible for a marijuana grow site.]

[(b) 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 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.]

[(c) 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 may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder.]

[(7) A registry identification cardholder or the designated primary caregiver of the cardholder may reimburse the person responsible for a marijuana grow site for the costs of supplies and utilities associated with the production of marijuana for the registry identification cardholder. No other costs associated with the production of marijuana for the registry identification cardholder, including the cost of labor, may be reimbursed.]

[(8) The authority may adopt rules imposing a fee in an amount established by the authority for registration of a marijuana grow site under this section.]

(1)(a) The Oregon Health Authority shall establish by rule a marijuana grow site registration system to track and regulate the production of marijuana by a registry identification cardholder or a person designated by the registry identification cardholder to produce marijuana for the registry identification cardholder.

(b) Except as provided in paragraph (c) of this subsection, a person may not produce marijuana unless the person is registered under this section.

(c) Paragraph (b) of this subsection does not apply to a the production of marijuana as provided in sections 3 to 70, chapter 1, Oregon Laws 2015, or as otherwise provided for by the statutory laws of this state.

(2) Rules adopted under this section must require an applicant for a registry identification card, or a registry identification cardholder who produces marijuana or who designates another person to produce marijuana, to submit an application to the authority containing the following information at the time of making an application under ORS 475.309 (2), renewing a registry identification card under ORS 475.309 (6)(b), or notifying the authority of a change under ORS 475.309 (6)(a):

(a) The name of the person responsible for the marijuana grow site;

(b) Proof, until January 1, 2020, that the person responsible for the marijuana grow site has been a resident of this state for two or more years, and proof that the person is 21 years of age or older;

(c) The address of the marijuana grow site; and

(d) Any other information that the authority considers necessary to track the production of marijuana under ORS 475.300 to 475.346.

(3)(a) The authority shall conduct a criminal records check under ORS 181.534 of any person whose name is submitted under this section as the person responsible for a marijuana grow site.

(b) 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 may not act as or be designated a person responsible for a marijuana grow site for two years from the date of conviction.

(c) 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 may not act as or be designated a person responsible for a marijuana grow site.

(4) Subject to subsection (11) of this section, the authority shall issue a marijuana grow site registration card if the requirements of subsections (2) and (3) of this section are met.

(5) A person who holds a marijuana grow site registration card under this section must display the card at the marijuana grow site at all times.

(6) A marijuana grow site registration card must be obtained and posted for each registry identification cardholder for whom marijuana is being produced at a marijuana grow site.

(7)(a) All seeds, immature marijuana plants, mature marijuana plants and usable marijuana associated with the production of marijuana for a registry identification cardholder by a person responsible for a marijuana grow site are the property of the registry identification cardholder.

(b) All seeds, immature marijuana plants, mature marijuana plants and usable marijuana associated with the production of marijuana for a registry identification cardholder by a person responsible for a marijuana grow site must be transferred to the registry identification cardholder upon the request of the registry identification cardholder.

(c) All usable marijuana associated with the production of marijuana for a registry identification cardholder by a person responsible for a marijuana grow site must be transferred to a marijuana processing site upon the request of the registry identification cardholder. For purposes of this paragraph, a request to transfer usable marijuana constitutes an assignment of the right to possess the usable marijuana.

(d) All seeds, immature marijuana plants and usable marijuana associated with the production of marijuana for a registry identification cardholder by a person responsible for a marijuana grow site must be transferred to a medical marijuana dispensary upon request of the registry identification cardholder. For purposes of this paragraph, a request to transfer seeds, immature marijuana plants or usable marijuana constitutes an assignment of the right to possess the seeds, immature marijuana plants or usable marijuana.

(e) Information related to transfers made under this subsection must be submitted to the authority in the manner required by section 81a of this 2015 Act.

(8) A registry identification cardholder, or the designated caregiver of a registry identification cardholder, may reimburse a person responsible for a marijuana grow site for all costs associated with the production of marijuana for the registry identification cardholder.

(9) The authority may inspect:

(a) The marijuana grow site of a person designated to produce marijuana by a registry identification cardholder to ensure compliance with this section and section 81a of this 2015 Act and ORS 475.320 and any rule adopted under this section and section 81a of this 2015 Act and ORS 475.320; and

(b) The records of the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder to ensure compliance with this section and section 81a of this 2015 Act and any rule adopted under this section and section 81a of this 2015 Act.

(10) The authority may refuse to register a registry identification cardholder or a designee under this section or may suspend or revoke the registration of a person responsible for a marijuana grow site if the authority determines that the applicant or the person responsible for a marijuana grow site violated a provision of ORS 475.300 to 475.346, a rule adopted under ORS 475.300 to 475.346 or an ordinance adopted pursuant to section 2, chapter 79, Oregon Laws 2014.

(11) The authority may require a person responsible for a marijuana grow site, prior to issuing a marijuana grow site registration card under subsection (4) of this section, to pay a fee reasonably calculated to pay costs incurred under this section and sections 81a and 85e of this 2015 Act.

SECTION 81a. (1) A person designated to produce marijuana by a registry identification cardholder must submit to the Oregon Health Authority, in a form and manner established by the authority by rule, the following information related to the production of marijuana:

(a) The number of mature marijuana plants and immature marijuana plants, the amount of marijuana leaves and flowers being dried, and the amount of usable marijuana, in the person's possession;

(b) The number of mature marijuana plants and immature marijuana plants, and the amount of usable marijuana, that the person transfers to each registry identification cardholder for whom the person produces marijuana;

(c) The amount of usable marijuana that the person transfers to each marijuana processing site; and

(d) The number of immature marijuana plants, and the amount of usable marijuana, that the person transfers to each medical marijuana dispensary.

(2) The authority shall by rule require a person designated to produce marijuana by a registry identification cardholder to submit the information described in subsection (1) of this section once each month. The authority may not employ any method other than that described in this section to obtain information related to the production of marijuana from a person designated to produce marijuana by a registry identification cardholder.

(3) In addition to submitting the information as required by subsection (1) of this section, a person designated to produce marijuana by a registry identification cardholder must keep a record of the information described in subsection (1) of this section for two years after the date on which the person submits the information to the authority.

SECTION 81b. (1) Except as provided in subsection (2) of this section, section 81a of this 2015 Act and the amendments to ORS 475.304 by section 81 of this 2015 Act apply to persons who have registered with the Oregon Health Authority under ORS 475.304 before, on or after the operative date specified in section 179 of this 2015 Act.

(2) The amendments to ORS 475.304 by section 81 of this 2015 Act pertaining to the submission of information necessary to register a person as a person responsible for a marijuana grow site apply to applications for registry identification cards, applications to renew registry identification cards, and designations made under ORS 475.304, on or after the operative date specified in section 179 of this 2015 Act.

(Grow Site Possession Limits)

SECTION 82. ORS 475.320 is amended to read:

475.320. [(1)(a) A registry identification cardholder or the designated primary caregiver of the cardholder may possess up to six mature marijuana plants and 24 ounces of usable marijuana.]

[(b) Notwithstanding paragraph (a) of this subsection, if a registry identification cardholder has been 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, the registry identification cardholder or the designated primary caregiver of the cardholder may possess one ounce of usable marijuana at any given time for a period of five years from the date of the conviction.]

[(2) A person authorized under ORS 475.304 to produce marijuana at a marijuana grow site:]

[(a) May produce marijuana for and provide marijuana:]

[(A) To a registry identification cardholder or a cardholder's designated primary caregiver as authorized under this section; or]

[(B) If the marijuana is usable marijuana or an immature marijuana plant and the registry identification cardholder authorizes the person responsible for the marijuana grow site to transfer the usable marijuana or immature marijuana plant to a medical marijuana facility registered under ORS 475.314, to the medical marijuana facility.]

[(b) May possess up to six mature plants and up to 24 ounces of usable marijuana for each cardholder or caregiver for whom marijuana is being produced.]

[(c) May produce marijuana for no more than four registry identification cardholders or designated primary caregivers concurrently.]

[(d) Must obtain and display a marijuana grow site registration card issued under ORS 475.304 for each registry identification cardholder or designated primary caregiver for whom marijuana is being produced.]

[(e) Must provide all marijuana produced for a registry identification cardholder or designated primary caregiver to the cardholder or caregiver at the time the person responsible for a marijuana grow site ceases producing marijuana for the cardholder or caregiver.]

[(f) Must return the marijuana grow site registration card to the registry identification cardholder to whom the card was issued when requested to do so by the cardholder or when the person responsible for a marijuana grow site ceases producing marijuana for the cardholder or caregiver.]

[(3) Except as provided in subsections (1) and (2) of this section, a registry identification cardholder, the designated primary caregiver of the cardholder and the person responsible for a marijuana grow site producing marijuana for the registry identification cardholder may possess a combined total of up to six mature plants and 24 ounces of usable marijuana for that registry identification cardholder.]

[(4)(a) A registry identification cardholder and the designated primary caregiver of the cardholder may possess a combined total of up to 18 marijuana seedlings or starts as defined by rule of the Oregon Health Authority.]

[(b) A person responsible for a marijuana grow site may possess up to 18 marijuana seedlings or starts as defined by rule of the authority for each registry identification cardholder for whom the person responsible for the marijuana grow site is producing marijuana.]

(1) Subject to subsection (2) of this section, a registry identification cardholder and the designated primary caregiver of the registry identification cardholder may jointly possess six or fewer mature marijuana plants.

(2)(a) A person may be designated to produce marijuana under ORS 475.304 by no more than four registry identification cardholders.

(b) A person who is designated to produce marijuana by a registry identification cardholder may produce no more than six mature marijuana plants per registry identification cardholder.

(3) If the address of a person responsible for a marijuana grow site under ORS 475.304 is located within city limits in an area zoned for residential use:

(a) Except as provided in paragraph (b) of this subsection, no more than 12 mature marijuana plants may be produced at the address; or

(b) Subject to subsection (5) of this section, if each person responsible for a marijuana grow site located at the address first registered with the Oregon Health Authority under ORS 475.304 before January 1, 2015, no more than the amount of mature marijuana plants located at that address on December 31, 2014, in excess of 12 mature marijuana plants, not to exceed 24 mature marijuana plants, may be produced at the address.

(4) If the address of a person responsible for a marijuana grow site under ORS 475.304 is located in an area other than an area described in subsection (3) of this section:

(a) Except as provided in paragraph (b) of this subsection, no more than 48 mature marijuana plants may be produced at the address; or

(b) Subject to subsections (5) and (6) of this section, if each person responsible for a marijuana grow site located at the address first registered with the authority under ORS 475.304 before January 1, 2015, no more than the amount of mature marijuana plants located at that address on December 31, 2014, in excess of 48 mature marijuana plants, not to exceed 96 mature marijuana plants, may be produced at the address.

(5) If the authority suspends or revokes the registration of a person responsible for a marijuana grow site that is located at an address described in subsection (3)(b) or (4)(b) of this section:

(a) No more than 12 mature marijuana plants may be subsequently produced at any address described in subsection (3) of this section at which the person responsible for that marijuana grow site produces marijuana.

(b) No more than 48 mature marijuana plants may be subsequently produced at any address described in subsection (4) of this section at which the person responsible for that marijuana grow site produces marijuana.

(6) If a registry identification cardholder who designated a person to produce marijuana for the registry identification cardholder pursuant to ORS 475.304 terminates the designation, the person responsible for the marijuana grow site whose designation has been terminated may not be designated to produce marijuana by another registry identification cardholder, except that the person may be designated by another registry identification cardholder if no more than 48 mature marijuana plants are produced at the address for the marijuana grow site at which the person produces marijuana.

(7) If a law enforcement officer determines that a registry identification cardholder, the designated primary caregiver of a registry identification cardholder, or a person responsible for a marijuana grow site under ORS 475.304 who grows marijuana for a registry identification cardholder, possesses a number of mature marijuana plants in excess of the quantities specified in this section, the law enforcement officer may confiscate only the excess number of mature marijuana plants.

SECTION 82a. (1) Except as provided in subsection (2) of this section, a registry identification cardholder and the designated primary caregiver of the registry identification cardholder may jointly possess no more than 24 ounces of usable marijuana.

(2) Subject to subsection (3) of this section, a person designated to produce marijuana by a registry identification cardholder may possess the amount of usable marijuana that the person harvests from the person's mature marijuana plants, provided that the person may not possess usable marijuana in excess of the amount of usable marijuana in the person's possession as reported to the Oregon Health Authority under section 81a of this 2015 Act.

(3) A person designated to produce marijuana by a registry identification cardholder may not possess usable marijuana in excess of:

(a) For a marijuana grow site located outdoors, 12 pounds of usable marijuana per mature marijuana plant; or

(b) For a marijuana grow site located indoors, six pounds of usable marijuana per mature marijuana plant.

SECTION 82b. The amendments to ORS 475.320 by section 82 of this 2015 Act apply to persons who registered with the Oregon Health Authority under ORS 475.304 before, on or after the operative date specified in section 179 of this 2015 Act.

(Personal Agreements)

SECTION 83. Notwithstanding ORS 475.304 (7), a person responsible for a marijuana grow site may enter into an agreement with a registry identification cardholder under which the registry identification cardholder assigns, to the person responsible for the marijuana grow site, a portion of the right to possess the seeds, immature marijuana plants and usable marijuana that are the property of the registry identification cardholder.

(Proof of Issuance)

SECTION 84. ORS 475.306 is amended to read:

475.306. *[(1) A person who possesses a registry identification card issued pursuant to ORS 475.309 may engage in, and a designated primary caregiver of such a person may assist in, the medical use of marijuana only as justified to mitigate the symptoms or effects of the person's debilitating medical condition.]*

[(2) A person who is a registry identification cardholder must possess the registry identification card when using or transporting marijuana in a location other than the residence of the cardholder.]

[(3) The Oregon Health Authority shall define by rule when a marijuana plant is mature and when it is immature. The rule shall provide that a plant that has no flowers and that is less than 12 inches in height and less than 12 inches in diameter is a seedling or a start and is not a mature plant.]

A person to whom a registry identification card has been issued under ORS 475.309 (5)(a), an identification card has been issued under ORS 475.309 (5)(b), or a marijuana grow site registration card has been issued under ORS 475.304, may not possess marijuana, usable marijuana, medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts in a location other than the address on file with the Oregon Health Authority unless the person is carrying the card.

(Medical Marijuana Processors)

SECTION 85. (1)(a) The Oregon Health Authority shall establish by rule a marijuana processing site registration system to track and regulate the processing of marijuana by a person responsible for a marijuana processing site.

(b) Except as provided in paragraph (c) of this subsection, a person may not process marijuana unless the person is registered under this section.

(c) Paragraph (b) of this subsection does not apply to the processing of marijuana as provided in sections 3 to 70, chapter 1, Oregon Laws 2015, or as otherwise provided for by the statutory laws of this state.

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

(a) The name of the individual who owns the marijuana processing site or, if a business entity owns the marijuana processing site, the name of each individual who has a financial interest in the marijuana processing site;

(b) The name of the individual or individuals responsible for the marijuana processing site, if different from the name of the individual who owns the marijuana processing site;

(c) The address of the marijuana processing site;

(d) Proof, until January 1, 2020, that each individual responsible for the marijuana processing site has been a resident of this state for two or more years, and proof that each individual responsible for the marijuana processing site is 21 years of age or older;

(e) Documentation, as required by the authority by rule, that demonstrates the marijuana processing site meets the requirements of subsection (3) of this section; and

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

(3) To qualify for registration under this section, a marijuana processing site:

(a) May not be located in an area that is zoned for residential use if the marijuana processing site processes cannabinoid extracts;

(b) Must be registered as a business, or have filed an application to register as a business, with the office of the Secretary of State; and

(c) Must meet the requirements of any rule adopted by the authority under subsection (10) of this section.

(4)(a) The authority shall conduct a criminal records check under ORS 181.534 for each individual named in an application under subsection (2) of this section.

(b) An individual convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not own or be responsible for a marijuana processing site for two years from the date the individual is convicted.

(c) An individual convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not own or be responsible for a marijuana processing site.

(5) If a person submits the application required under subsection (2) of this section, if the marijuana processing site identified in the application meets the requirements of this section

and any rules adopted under this section and if each individual named in the application passes the criminal records check required under subsection (4) of this section, the authority shall register the marijuana processing site and issue proof of registration. Proof of registration must be displayed on the premises of the marijuana processing site at all times.

(6) A marijuana processing site that is registered under this section is not required to register with the State Board of Pharmacy under ORS 475.125.

(7) The individual or individuals responsible for a marijuana processing site shall maintain documentation of each transfer of usable marijuana, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

(8) The authority may inspect:

(a) The premises of a proposed marijuana processing site or a registered marijuana processing site to ensure compliance with this section and sections 85a and 85b of this 2015 Act and any rules adopted under this section and sections 85a and 85b of this 2015 Act; and

(b) The records of a registered marijuana processing site to ensure compliance with subsection (7) of this section.

(9) Subject to the provisions of ORS chapter 183, the authority may refuse to register an applicant under this section or may suspend or revoke the registration of a marijuana processing site if the authority determines that the applicant, the owner of the marijuana processing site, a person responsible for the marijuana processing site, or an employee of the marijuana processing site, violated a provision of ORS 475.300 to 475.346, a rule adopted under ORS 475.300 to 475.346 or an ordinance adopted pursuant to section 2, chapter 79, Oregon Laws 2014.

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

(a) Require a registered marijuana processing site to annually renew the registration for that site;

(b) Establish fees for registering, and renewing the registration of, a marijuana processing site;

(c) Require that medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts transferred by a marijuana processing site be tested to ensure the public health and safety; and

(d) Impose any other standard on the operation of a marijuana processing site to ensure the public health and safety.

SECTION 85a. (1) A marijuana processing site must meet any public health and safety standards established by the Oregon Health Authority by rule related to:

(a) Cannabinoid edibles, if the marijuana processing site processes marijuana into cannabinoid edibles;

(b) Cannabinoid concentrates, if the marijuana processing site processes marijuana into cannabinoid concentrates;

(c) Cannabinoid extracts, if the marijuana processing site processes marijuana into cannabinoid extracts; or

(d) Any other type of medical cannabinoid product identified by the authority by rule, if the marijuana processing site processes marijuana into that type of medical cannabinoid product.

(2) The authority shall adopt rules to implement this section.

SECTION 85b. (1) The Oregon Health Authority shall require by rule a marijuana processing site to submit to the authority for inclusion in the database developed and maintained pursuant to section 85e of this 2015 Act the following information:

(a) The amount of usable marijuana transferred to the marijuana processing site;

(b) The amount and type of medical cannabinoid products transferred by the marijuana processing site;

(c) The amount and type of cannabinoid concentrates transferred by the marijuana processing site; and

(d) The amount and type of cannabinoid extracts transferred by the marijuana processing site.

(2) The authority by rule may require a marijuana processing site to submit to the authority for inclusion in the database developed and maintained pursuant to section 85e of this 2015 Act information that is in addition to the information described in subsection (1) of this section as the authority considers necessary to fulfill the authority's duties under section 85 (1) of this 2015 Act. The authority may not employ any method other than that described in this section to obtain information from a marijuana processing site.

SECTION 85c. (1) A marijuana processing site may not transfer medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts to a person other than a registry identification cardholder, a designated primary caregiver or a medical marijuana dispensary.

(2) A person other than a marijuana processing site may not transfer medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts to a medical marijuana dispensary.

SECTION 85d. Section 85 of this 2015 Act does not apply to a registry identification cardholder or a person who has been designated as a primary caregiver under ORS 475.312 who processes a medical cannabinoid product or a cannabinoid concentrate for a registry identification cardholder.

(Database)

SECTION 85e. (1) The Oregon Health Authority shall develop and maintain a database of information related to the production of marijuana by persons designated to produce marijuana by a registry identification cardholder, the processing of marijuana by a marijuana processing site under section 85 of this 2015 Act and the transfer of usable marijuana, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts by medical marijuana dispensaries under ORS 475.314. At a minimum, the database must include the information submitted to the authority under sections 81a, 85b and 86b of this 2015 Act.

(2)(a) Subject to paragraph (c) of this subsection, the authority may provide information that is stored in the database developed and maintained under this section to a law enforcement agency.

(b) Subject to paragraph (c) of this subsection, the authority may provide information that is stored in the database developed and maintained under this section to the regulatory agencies of a city or county.

(c) The authority may not disclose:

(A) Any personally identifiable information related to a registry identification cardholder or a designated primary caregiver that is stored in the database developed and maintained under this section.

(B) Any information related to the amount and type of usable marijuana, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts transferred to or by persons designated to produce marijuana by a registry identification cardholder, marijuana processing sites or medical marijuana dispensaries.

(3) Nothing in this section prevents a law enforcement agency from lawfully obtaining information that is stored in the database developed and maintained under this section by subpoena.

(Medical Marijuana Dispensaries)

SECTION 86. ORS 475.314, as amended by section 5, chapter 79, Oregon Laws 2014, is amended to read:

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

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

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

(1)(a) The Oregon Health Authority shall establish by rule a medical marijuana dispensary registration system for the purpose of tracking and regulating the transfer of:

(A) Usable marijuana, immature marijuana plants and seeds from registry identification cardholders, designated primary caregivers and persons responsible for marijuana grow sites to medical marijuana dispensaries;

(B) Medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts from persons responsible for marijuana processing sites to medical marijuana dispensaries; and

(C) Usable marijuana, immature marijuana plants, seeds, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts from medical marijuana dispensaries to registry identification cardholders and designated primary caregivers.

(b) A person may not operate an establishment for the purpose of providing the services described in paragraph (a) of this subsection unless the person is registered under this section.

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

(a) The name of the individual who owns the medical marijuana dispensary or, if a business entity owns the medical marijuana dispensary, the name of each individual who has a financial interest in the medical marijuana dispensary;

[(a)] (b) The name of the [person] individual or individuals responsible for the medical marijuana [facility] dispensary, if different from the name of the individual who owns the medical marijuana dispensary;

[(b)] (c) The address of the medical marijuana [facility] dispensary;

[(c)] (d) Proof, until January 1, 2020, that [the person] each individual responsible for the medical marijuana [facility is a resident of Oregon] dispensary has been a resident of this state for two or more years, and proof that each individual responsible for the medical marijuana dispensary is 21 years of age or older;

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

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

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

[(a) Must be located in an area that is zoned for commercial, industrial or mixed use or as agricultural land;]

(a) May not be located in an area that is zoned for residential use;

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

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

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

(d) May not be located within 1,000 feet of:

(A) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

(B) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a);

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

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

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

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

(f) Must meet the requirements of any rule adopted by the authority under subsection (10) of this section.

(4)(a) The authority shall conduct a criminal records check under ORS 181.534 [of a person whose name is submitted as the person responsible for a medical marijuana facility] **for each individual named in an application submitted** under subsection (2) of this section.

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

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

(5) If a person submits the application required under subsection (2) of this section, if the medical marijuana [facility] **dispensary** identified in the application meets the [qualifications for a medical marijuana facility described in subsection (3) of this section and the person responsible for the medical marijuana facility] **requirements of this section and any rules adopted under this section and if each individual named in the application** passes the criminal records check required under subsection (4) of this section, the authority shall register the medical marijuana [facility] **dispensary** and issue [the person responsible for the medical marijuana facility] proof of registration. [The person responsible for the medical marijuana facility shall display the] **Proof of registration must be displayed** on the premises of the medical marijuana [facility at all times when usable marijuana or immature marijuana plants are being transferred as described in subsection (1) of this section] **dispensary at all times.**

(6) A medical marijuana dispensary that is registered under this section is not required to register with the State Board of Pharmacy under ORS 475.125.

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

[(b) *A registered medical marijuana facility shall maintain:*]

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

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

(7) The individual or individuals responsible for a medical marijuana dispensary shall maintain documentation of each transfer of usable marijuana, medical cannabinoid products, cannabinoid concentrates, cannabinoid extracts, immature marijuana plants and seeds.

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

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

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

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

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

(a) The premises of a proposed medical marijuana dispensary or a registered medical marijuana dispensary to ensure compliance with this section and section 86b of this 2015 Act and any rules adopted under this section or section 86b of this 2015 Act; and

(b) The records of a registered medical marijuana [facility] dispensary to ensure compliance with subsection [(6)(b)] (7) of this section.

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

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

[(11) the authority may revoke the registration of a medical marijuana facility registered under this section for failure to comply with ORS 475.300 to 475.346, rules adopted under ORS 475.300 to 475.346 or ordinances adopted pursuant to section 2, chapter 79, Oregon Laws 2014. The authority may release to the public a final order revoking a medical marijuana facility registration.]

(9) Subject to the provisions of ORS chapter 183, the authority may refuse to register an applicant under this section or may suspend or revoke the registration of a medical marijuana dispensary if the authority determines that the applicant, the owner of the medical marijuana dispensary, a person responsible for the medical marijuana dispensary, or an employee of the medical marijuana dispensary, violated a provision of ORS 475.300 to 475.346, a rule adopted under ORS 475.300 to 475.346 or an ordinance adopted pursuant to section 2, chapter 79, Oregon Laws 2014.

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

(a) Require a registered medical marijuana [facility registered under this section] dispensary to annually renew [that registration; and] the registration for that dispensary;

(b) Establish fees for registering, and renewing the registration [for] of, a medical marijuana [facility under this section.] dispensary;

(c) Require that each medical marijuana dispensary install and maintain a minimum security system that includes video surveillance, an alarm system and a safe;

(d) Require that usable marijuana, medical cannabinoid products, cannabinoid concentrates, cannabinoid extracts and immature marijuana plants transferred by a medical marijuana dispensary be tested to ensure the public health and safety; and

(e) Impose any other standard on the operation of a medical marijuana dispensary to ensure the public health and safety.

SECTION 86a. If a school described in ORS 475.314 (3)(d) that has not previously been attended by children is established within 1,000 feet of a medical marijuana dispensary, the medical marijuana dispensary may remain at its current location unless the Oregon Health Authority revokes the registration of the medical marijuana dispensary.

SECTION 86b. (1) The Oregon Health Authority shall require by rule a medical marijuana dispensary to submit to the authority for inclusion in the database developed and maintained pursuant to section 85e of this 2015 Act the following information:

(a) The amount of usable marijuana transferred to and by the medical marijuana dispensary;

(b) The amount and type of medical cannabinoid products transferred to and by the medical marijuana dispensary;

(c) The amount and type of cannabinoid concentrates transferred to and by the medical marijuana dispensary;

(d) The amount and type of cannabinoid extracts transferred to and by the medical marijuana dispensary; and

(e) The quantity of immature marijuana plants transferred to and by the medical marijuana dispensary.

(2) The authority by rule may require a medical marijuana dispensary to submit to the authority for inclusion in the database developed and maintained pursuant to section 85e of this 2015 Act information that is in addition to the information described in subsection (1) of this section as the authority considers necessary to fulfill the authority's duties under ORS 475.314 (1). The authority may not employ any method other than that described in this section to obtain information from a medical marijuana dispensary.

(Designation, Assignment and Foreclosure)

SECTION 86c. (1) A person responsible for a marijuana processing site, or a person responsible for a medical marijuana dispensary, may designate that responsibility to another person.

(2) If a designation is made under this section, the designee must submit to the Oregon Health Authority proof that the designee meets the requirements and restrictions set forth in:

(a) For marijuana processing sites, section 85 (2)(d) and (4) of this 2015 Act; or

(b) For medical marijuana dispensaries, ORS 475.314 (2)(d) and (4).

(3) The authority may prescribe the form and manner of submitting proof under subsection (2) of this section.

SECTION 86d. (1) A person responsible for a marijuana processing site, or a person responsible for a medical marijuana dispensary, may assign that responsibility to another person.

(2) If an assignment is made under this section, the assignee must submit to the Oregon Health Authority proof that the assignee meets the requirements and restrictions set forth in:

(a) For marijuana processing sites, section 85 (2)(d) and (4) of this 2015 Act; or

(b) For medical marijuana dispensaries, ORS 475.314 (2)(d) and (4).

(3) The authority may prescribe the form and manner of submitting proof under subsection (2) of this section.

SECTION 86e. (1) In the event that a marijuana processing site or a medical marijuana dispensary is foreclosed or otherwise ceases operations as described in ORS chapter 79, a secured party, as defined in ORS 79.0102, may continue operations at the marijuana processing site or medical marijuana dispensary upon submitting to the Oregon Health Authority proof that the secured party or, if the secured party is a business entity, any individual who has a financial interest in the secured party, meets the requirements and restrictions set forth in:

(a) For marijuana processing sites, section 85 (2)(d) and (4) of this 2015 Act; or

(b) For medical marijuana dispensaries, ORS 475.314 (2)(d) and (4).

(2) The authority may prescribe the form and manner of submitting proof under subsection (1) of this section.

(Exemptions from Criminal Liability)

and Affirmative Defense)

SECTION 87. Except as provided in ORS 475.316, a person engaged in or assisting in the medical use of marijuana is exempt from the criminal laws of this state for possession, delivery or manufacture of marijuana, aiding and abetting another in the possession, delivery or manufacture of marijuana, or any other criminal offense in which possession, delivery or manufacture of marijuana is an element if:

- (1) The person holds a registry identification card.
- (2) The person has applied for a registry identification card under ORS 475.309 and the person has proof of written documentation described in ORS 475.309 (2)(a) and proof of the date on which the person submitted the application to the Oregon Health Authority. An exemption under this subsection applies only until the authority approves or denies the application.
- (3) The person is designated as a primary caregiver under ORS 475.312.
- (4) The person is responsible for or is employed by a marijuana grow site registered under ORS 475.304.
- (5) The person owns, is responsible for, or is employed by, a marijuana processing site.
- (6) The person owns, is responsible for, or is employed by, a medical marijuana dispensary.

SECTION 87a. ORS 475.319 is amended to read:

475.319. (1) Except as provided in ORS 475.316 [and 475.342, it is], a person has an affirmative defense to a criminal charge of possession [or production], delivery or manufacture of marijuana, or any other criminal offense in which possession [or production], delivery or manufacture of marijuana is an element, [that] if the person charged with the offense [is a person who]:

(a) [Has been] Was diagnosed with a debilitating medical condition within 12 months [prior to arrest and been] of the date on which the person was arrested and was advised by the person's attending physician that the medical use of marijuana may mitigate the symptoms or effects of that debilitating medical condition;

(b) Is engaged in the medical use of marijuana; and

(c) Possesses [or produces], delivers or manufactures marijuana only in [amounts] quantities permitted under ORS 475.320.

(2) [It is not necessary for a person asserting an affirmative defense pursuant to this section to have received] A person does not need to lawfully possess a registry identification card [in order] to assert the affirmative defense established in this section.

(3) [No] A person engaged in the medical use of marijuana who claims that marijuana provides medically necessary benefits and who is charged with a crime pertaining to [such] the use of marijuana [shall be] is not precluded from presenting a defense of choice of evils, as set forth in ORS 161.200, or from presenting evidence supporting the necessity of marijuana for treatment of a specific disease or medical condition, provided that [the amount of marijuana at issue is no greater than permitted under ORS 475.320 and the patient]:

(a) The person possesses, delivers or manufactures marijuana only as permitted under ORS 475.320 (1); and

(b) The person has taken a substantial step [to comply] toward complying with the provisions of ORS 475.300 to 475.346.

(4) [Any] A defendant proposing to use the affirmative defense [provided for by] established in this section in a criminal action shall, not less than five days before the trial of the cause, file and serve upon the district attorney a written notice of the intention to [offer such a] assert the affirmative defense [that]. The notice must specifically [states] state the reasons why the defendant is entitled to assert the affirmative defense and the factual basis for [such] the affirmative defense. If the defendant fails to file and serve [such] the notice, the defendant is not permitted to assert the affirmative defense at the trial of the cause unless the court [for good cause] orders, for good cause, otherwise.

SECTION 87b. ORS 475.316 is amended to read:

475.316. *[(1) No person authorized to possess, deliver or produce marijuana for medical use pursuant to ORS 475.300 to 475.346 shall be excepted from the criminal laws of this state or shall be deemed to have established an affirmative defense to criminal charges of which possession, delivery or production of marijuana is an element if the person, in connection with the facts giving rise to such charges:] A person is not exempt from the criminal laws of this state for possession, delivery or manufacture of marijuana, aiding and abetting another in the possession, delivery or manufacture of marijuana, or any other criminal offense in which possession, delivery or manufacture of marijuana is an element, and the person may not assert the affirmative defense established in ORS 475.319, if the person, in connection with conduct constituting an element of the offense:*

[(a)] (1) Drives under the influence of marijuana as provided in ORS 813.010;

[(b)] (2) Engages in the medical use of marijuana in a public place, as [that term is] defined in ORS 161.015, [or] in public view or in a correctional facility, as defined in ORS 162.135 (2), or a youth correction facility, as defined in ORS 162.135 (6); or

[(c)] (3) Delivers marijuana to any individual who the person knows is not in possession of a registry identification card[,] or to any individual or entity that the person knows has not been designated to receive marijuana or assigned a possessory interest in marijuana by an individual in possession of a registry identification card.

[(d) Delivers marijuana for consideration to any individual, even if the individual is in possession of a registry identification card;]

[(e) Manufactures or produces marijuana at a place other than a marijuana grow site authorized under ORS 475.304; or]

[(f) Manufactures or produces marijuana at more than one address.]

[(2) In addition to any other penalty allowed by law, a person who the Oregon Health Authority finds has willfully violated the provisions of ORS 475.300 to 475.346, or rules adopted under ORS 475.300 to 475.346, may be precluded from obtaining or using a registry identification card for the medical use of marijuana for a period of up to six months, at the discretion of the authority.]

(General Powers)

SECTION 88. (1) In addition to any other liability or penalty provided by law, the Oregon Health Authority may impose for each violation of a provision of ORS 475.300 to 475.346, or for each violation of a rule adopted under a provision of ORS 475.300 to 475.346, a civil penalty that does not exceed \$500 for each day that the violation occurs.

(2) The authority shall impose civil penalties under this section in the manner provided by ORS 183.745.

(3) All moneys collected pursuant to this section shall be deposited in the Oregon Health Authority Fund established under ORS 413.101 and are continuously appropriated to the authority for the purpose of carrying out the duties, functions and powers of the authority under ORS 475.300 to 475.346.

SECTION 88a. Upon request the State Department of Agriculture and the Oregon Liquor Control Commission, pursuant to an agreement or otherwise, shall assist the Oregon Health Authority in implementing and enforcing the provisions of ORS 475.300 to 475.346 and rules adopted under the provisions of ORS 475.300 to 475.346.

SECTION 88b. The Oregon Health Authority, the State Department of Agriculture and the Oregon Liquor Control Commission may possess, seize or dispose of marijuana, usable marijuana, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts as is necessary for the authority to ensure compliance with and enforce the provisions of ORS 475.300 to 475.346 and any rule adopted under ORS 475.300 to 475.346.

(Exemption from Civil Liability)

SECTION 88c. The Oregon Health Authority, the State Department of Agriculture and the Oregon Liquor Control Commission, and the officers, employees and agents of the authority, department and commission, are immune from any cause of action for the performance of, or the failure to perform, duties required by ORS 475.300 to 475.346.

(Confidentiality)

SECTION 88d. (1) Any personally identifiable information, as defined in ORS 432.005, other than a name of an individual or an address submitted with an application under ORS 475.314 or section 85 of this 2015 Act, that the Oregon Health Authority collects and maintains for purposes of registering a marijuana grow site under ORS 475.304, a marijuana processing site under section 85 of this 2015 Act, or a medical marijuana dispensary under ORS 475.314, is confidential and not subject to public disclosure under ORS 192.410 to 192.505, except that the authority may provide personally identifiable information to a person registered under ORS 475.300 to 475.346 if the registrant requests the information and the information is related to a designation made under ORS 475.300 to 475.346.

(2) Any personally identifiable information, as defined in ORS 432.005, submitted to the authority under section 81a, 85b or 86b of this 2015 Act or pursuant to section 85e of this 2015 Act is confidential and not subject to public disclosure under ORS 192.410 to 192.505.

(3) Any record that the authority keeps or maintains for purposes related to the installation or maintenance of a security system by a medical marijuana dispensary pursuant to rules adopted under ORS 475.314 (10) is confidential and not subject to public disclosure under ORS 192.410 to 192.505.

SECTION 88e. Notwithstanding section 88d of this 2015 Act, if the Oregon Health Authority suspends or revokes the registration of the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary, or otherwise takes disciplinary action against the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary, the authority shall provide that information to a law enforcement agency.

(Seeds)

SECTION 88f. (1) For purposes of ORS 475.300 to 475.346, seeds of the plant Cannabis family Cannabaceae are a propagant of nursery stock as defined in ORS 571.005.

(2) Notwithstanding subsection (1) of this section, the production and processing of seeds under ORS 475.300 to 475.346 is not subject to the labeling or other requirements of ORS 576.715 to 576.744 or 633.511 to 633.750.

(Ordinances)

SECTION 89. Section 2, chapter 79, Oregon Laws 2014, is amended to read:

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

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

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

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

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

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

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

(Other Amendments)

SECTION 90. ORS 475.300 is amended to read:

475.300. The people of the State of Oregon [*hereby*] find that:

(1) Patients and doctors have found marijuana to be an effective treatment for suffering caused by debilitating medical conditions[,] and, therefore, marijuana [*should*] **must** be treated like other medicines;

(2) Oregonians suffering from debilitating medical conditions should be allowed to use [*small amounts of*] marijuana without fear of civil or criminal penalties when [*their doctors advise that such use*] **a doctor advises that using marijuana** may provide a medical benefit [*to them*] and when other reasonable restrictions are met regarding that use;

(3) ORS 475.300 to 475.346 are intended to allow Oregonians with debilitating medical conditions who may benefit from the medical use of marijuana to be able to [*discuss freely with their*] **freely discuss with doctors** the possible risks and benefits [*of*] **associated with the medical use of** marijuana [*use*] and to have the benefit of [*their doctor's*] professional **medical** advice; and

(4) ORS 475.300 to 475.346 are intended [*to make only those changes to existing Oregon laws that are necessary*] to protect patients and [*their*] doctors from criminal and civil penalties[,] and are not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes.

SECTION 90a. ORS 475.303 is amended to read:

475.303. (1) There is [*created*] **established within the Oregon Health Authority** the Advisory Committee on Medical Marijuana [*in the Oregon Health Authority*], consisting of 11 members appointed by the Director of the Oregon Health Authority.

(2) The director shall appoint members of the committee from [*persons who possess registry identification cards, designated primary caregivers of persons who possess registry identification cards and advocates of the Oregon Medical Marijuana Act.*] **persons who are knowledgeable about marijuana or who are registered with the authority under ORS 475.300 to 475.346 and who are advocates for the medical use of marijuana**, provided that a majority of the members of the committee are registered with the authority under ORS 475.300 to 475.346 and are **advocates for the medical use of marijuana**.

(3) The committee shall advise the director on the administrative aspects of [*the Oregon Medical Marijuana Program, review current and proposed administrative rules of the program and provide annual input on the fee structure of the program.*] **ORS 475.300 to 475.346, including rules and fees adopted, and proposed for adoption, under ORS 475.300 to 475.346.**

(4) The committee shall meet at least four times per year, at times and places specified by the director.

(5) The authority shall provide staff support to the committee.

(6) All agencies of state government, as defined in ORS 174.111, are directed to assist the committee in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish information and advice that the members of the committee consider necessary to perform their duties.

SECTION 90b. ORS 475.323 is amended to read:

475.323. (1) *[Possession of a registry identification card, designated primary caregiver identification card pursuant to ORS 475.309 or proof of registration as a medical marijuana facility under ORS 475.314]* **Registration under ORS 475.300 to 475.346 or possession of proof of registration under ORS 475.300 to 475.346** does not *[alone]* constitute probable cause to search the person or property of the *[cardholder]* **registrant** or otherwise subject the person or property of the *[cardholder]* **registrant** to inspection by *[any governmental]* **a government agency**. However, the Oregon Health Authority may inspect a *[medical marijuana facility registered under ORS 475.314]* **marijuana grow site registered under ORS 475.304, a marijuana processing site registered under section 85 of this 2015 Act, or a medical marijuana dispensary registered under ORS 475.314**, at any reasonable time to determine whether *[the facility]* **the person responsible for the marijuana grow site, the person responsible for the marijuana processing site, or the person responsible for the medical marijuana dispensary**, is in compliance with ORS 475.300 to 475.346 and rules adopted under ORS 475.300 to 475.346.

(2) Any property interest possessed, owned or used in connection with the medical use of marijuana or acts incidental to the medical use of marijuana that has been seized by state or local law enforcement officers may not be harmed, neglected, injured or destroyed while in the possession of *[any]* a law enforcement agency*[,]*, **except that** a law enforcement agency has no responsibility to maintain live marijuana plants lawfully seized. *[No]* Such property interest may **not** be forfeited under any provision of law providing for the forfeiture of property *[other than as]*, **except pursuant to** a sentence imposed after conviction of a criminal offense. *[Usable]* Marijuana and **equipment or paraphernalia used to produce, process or administer marijuana** that was seized by *[any]* a law enforcement *[office]* **officer** shall be returned immediately *[upon a determination by]* if the district attorney in whose county the property was seized, or the district attorney's designee, **determines** that the person from whom the marijuana, **equipment** or paraphernalia *[used to administer marijuana]* was seized is entitled to the protections *[contained in]* **provided by** ORS 475.300 to 475.346. The determination may be evidenced*[,] for example,* by a decision not to prosecute, the dismissal of charges or acquittal.

SECTION 90c. ORS 475.326 is amended to read:

475.326. *[No attending physician may be subjected to civil penalty or discipline by the Oregon Medical Board for:]* **The Oregon Medical Board may not impose a civil penalty or take other disciplinary action against an attending physician for:**

(1) Advising a person *[whom the attending physician has]* diagnosed as having a debilitating medical condition*[,] or a person who the attending physician knows has been so diagnosed]* by the **attending physician** or another physician licensed under ORS chapter 677*[,]* about the risks and benefits *[of]* **associated with the** medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, provided that the advice is based on the attending physician's personal assessment of the person's medical history and current medical condition; or

(2) Providing the written documentation necessary for issuance **or renewal** of a registry identification card under ORS 475.309, *[if]* **provided that the written** documentation is based on the attending physician's personal assessment of the *[applicant's]* **person's** medical history and current medical condition and the attending physician has discussed **with the person** the potential *[medical]* risks and benefits *[of]* **associated with the** medical use of marijuana *[with the applicant]*.

SECTION 90d. ORS 475.328 is amended to read:

475.328. (1) *[No]* A professional licensing board may **not** impose a civil penalty or take other disciplinary action against a licensee based on the licensee's medical use of marijuana *[in accordance with]* **under** the provisions of ORS 475.300 to 475.346 or actions taken by the licensee *[that are necessary to carry out the licensee's role as a designated primary caregiver to a person who possesses a lawful registry identification card]* **pursuant to the licensee's designation as a primary caregiver under ORS 475.312.**

(2)(a) A licensed health care professional may administer medical marijuana to a person who possesses a registry identification card and resides in a licensed health care facility if the administration of pharmaceuticals is within the scope of practice of the licensed health care professional. Administration of medical marijuana under this subsection may not take place in a public place as defined in ORS 161.015 or in the presence of a person under 18 years of age. If the medical marijuana administered under this subsection is smoked, adequate ventilation must be provided.

(b) Nothing in this subsection requires:

(A) A licensed health care professional to administer medical marijuana; or

(B) A licensed health care facility to make accommodations for the administration of medical marijuana.

SECTION 90e. ORS 475.331 is amended to read:

475.331. (1)(a) The Oregon Health Authority shall *[create]* **establish** and maintain a list of *[the persons to whom the authority has issued registry identification cards, the names of any designated primary caregivers, the names of persons responsible for a medical marijuana facility registered under ORS 475.314, the addresses of authorized marijuana grow sites and the addresses of registered medical marijuana facilities.]:*

(A) **The names of persons to whom a registry identification card has been issued under ORS 475.309;**

(B) **The names of persons designated as primary caregivers under ORS 475.312; and**

(C) **The addresses of marijuana grow sites registered under ORS 475.304.**

(b) Except as provided in subsection (2) of this section, the list *[shall be]* is confidential and not subject to public disclosure **under ORS 192.410 to 192.505.**

[(b)] (c) The authority shall develop a system by which authorized employees of state and local law enforcement agencies may verify *[at all times]* that:

(A) A person *[is a lawful possessor of]* **lawfully possesses** a registry identification card;

(B) A person is the designated primary caregiver of a lawful possessor of a registry identification card; **or**

(C) A location is *[an authorized]* **a registered** marijuana grow site*[:];*

[(D)] A location is a registered medical marijuana facility; *or]*

[(E)] A person is the person listed as the person responsible for a registered medical marijuana facility.]

(2) Names, **addresses** and other identifying information from the list established **and maintained** pursuant to subsection (1) of this section may be released to:

(a) Authorized employees of the authority as necessary to perform official duties of the authority.

(b) Authorized employees of state or local law enforcement agencies*[:]* who provide to the authority adequate identification, *[such as a badge number or similar authentication of authority,]* **but** only as necessary to verify that:

(A) A person *[is a lawful possessor of]* **lawfully possesses** a registry identification card;

(B) A person is the designated primary caregiver of a lawful possessor of a registry identification card; **or**

(C) A location is *[an authorized]* **a registered** marijuana grow site*[:];*

[(D)] A location is a registered medical marijuana facility; *or]*

[(E)] A person is the person listed as the person responsible for a registered medical marijuana facility.]

(3) Authorized employees of state or local law enforcement agencies *[that]* who obtain identifying information *[from the list]* as authorized *[under]* by this section may not release or use the information for any purpose other than *[verification]* to verify that:

- (a) A person *[is a lawful possessor of]* lawfully possesses a registry identification card;
- (b) A person is the designated primary caregiver of a lawful possessor of a registry identification card; or
- (c) A location is *[an authorized]* a registered marijuana grow site[;].
- [(d) A location is a registered medical marijuana facility; or]*
- [(e) A person is the person listed as the person responsible for a registered medical marijuana facility.]*

(4) In addition to releasing information to authorized employees of state or local law enforcement agencies for purposes of verifying information under subsection (2)(b) of this section, the authority may release to authorized employees of state or local law enforcement agencies the minimum amount of information necessary to enable an employee to determine whether an individual or location is in compliance with a provision of ORS 475.300 to 475.346 or a rule adopted under ORS 475.300 to 475.346.

(5) If the authority determines, after conducting an investigation or receiving a complaint of an alleged violation of a provision of ORS 475.300 to 475.346 or a rule adopted under ORS 475.300 to 475.346, that a violation of a provision of ORS 475.300 to 475.346 or a rule adopted under ORS 475.300 to 475.346 has occurred, the authority may provide information obtained by the authority, except for information related to a registry identification cardholder's debilitating condition, to authorized employees of state or local law enforcement agencies, or to another state or local government agency with jurisdiction over the matter.

SECTION 90f. ORS 475.334 is amended to read:

475.334. Any person may *[submit a petition to]* petition the Oregon Health Authority *[requesting]* to request that a *[particular]* disease or condition be included among the diseases and conditions that qualify as debilitating medical conditions under ORS *[475.302]* 475.300 to 475.346. The authority shall adopt rules establishing *[the manner in which the authority will evaluate petitions submitted under this section]* the procedure for filing a petition under this section and the manner by which the authority evaluates a request made under this section. *[Any]* Rules adopted *[pursuant to]* under this section *[shall]* must require the authority to approve or deny a petition within 180 days of *[receipt of]* receiving the petition *[by the authority]*. Denial of a petition *[shall be considered]* is a final *[authority]* agency action subject to judicial review.

SECTION 90g. ORS 475.338 is amended to read:

475.338. (1) The Oregon Health Authority shall adopt *[all]* rules necessary for the implementation, *[and]* administration and enforcement of ORS 475.300 to 475.346.

(2) The authority may adopt rules as the authority considers necessary to protect the public health and safety.

SECTION 90h. ORS 475.340 is amended to read:

475.340. Nothing in ORS 475.300 to 475.346 *[shall be construed to require]* requires:

- (1) A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana; or
- (2) An employer to accommodate the medical use of marijuana in *[any]* the workplace.

SECTION 90i. ORS 475.342 is amended to read:

475.342. *[Nothing in]* The provisions of ORS 475.300 to 475.346 *[shall protect]* do not protect a person from a criminal cause of action based on possession, *[production, or]* delivery or manufacture of marijuana that is not *[authorized by]* described in ORS 475.300 to 475.346.

**TESTING
OPERATIVE JANUARY 1, 2016**

SECTION 91. As used in sections 91 to 99 of this 2015 Act:

(1) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.

(2) "Cannabinoid concentrate or extract" means a substance obtained by separating cannabinoids from marijuana by a mechanical, chemical or other process.

(3) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate or extract or the dried leaves or flowers of marijuana have been incorporated.

(4)(a) "Cannabinoid product" means a cannabinoid edible or any other product intended for human consumption or use, including a product intended to be applied to a person's skin or hair, that contains cannabinoids or the dried leaves or flowers of marijuana.

(b) "Cannabinoid product" does not include:

(A) Usable marijuana by itself;

(B) A cannabinoid concentrate or extract by itself; or

(C) Industrial hemp, as defined in ORS 571.300.

(5)(a) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(b) "Marijuana" does not include industrial hemp, as defined in ORS 571.300.

(6) "Marijuana item" means marijuana, usable marijuana, a cannabinoid product or a cannabinoid concentrate or extract.

(7) "Processing" means the compounding or conversion of marijuana into cannabinoid products or cannabinoid concentrates or extracts.

(8) "Producing" means:

(a) Planting, cultivating, growing, trimming or harvesting marijuana; or

(b) Drying marijuana leaves and flowers.

(9)(a) "Usable marijuana" means the dried leaves and flowers of marijuana.

(b) "Usable marijuana" does not include:

(A) The seeds, stalks and roots of marijuana; or

(B) Waste material that is a by-product of producing or processing marijuana.

SECTION 92. (1) As is necessary to protect the public health and safety, and in consultation with the Oregon Liquor Control Commission and the State Department of Agriculture, the Oregon Health Authority shall adopt rules:

(a) Establishing standards for testing marijuana items.

(b) Identifying appropriate tests for marijuana items, depending on the type of marijuana item and the manner in which the marijuana item was produced or processed, that are necessary to protect the public health and safety, including, but not limited to, tests for:

(A) Microbiological contaminants;

(B) Pesticides;

(C) Other contaminants;

(D) Solvents or residual solvents; and

(E) Tetrahydrocannabinol and cannabidiol concentration.

(c) Establishing procedures for determining batch sizes and for sampling usable marijuana, cannabinoid products and cannabinoid concentrates or extracts.

(d) Establishing different minimum standards for different varieties of usable marijuana and different types of cannabinoid products and cannabinoid concentrates and extracts.

(2) In addition to the testing requirements established under subsection (1) of this section, the authority or the commission may require cannabinoid edibles to be tested in accordance with any applicable law of this state, or any applicable rule adopted under a law of this state, related to the production and processing of food products or commodities.

(3) In adopting rules under ORS 475.300 to 475.346, the authority may require:

(a) A person responsible for a marijuana grow site under ORS 475.304 to test usable marijuana before transferring the usable marijuana to a registrant other than an individual who holds a registry identification card under ORS 475.309; and

(b) A person processing marijuana to test cannabinoid products or cannabinoid concentrates or extracts before transferring the cannabinoid products or cannabinoid concentrates or extracts to a registrant other than an individual who holds a registry identification card under ORS 475.309.

(4) In adopting rules under sections 3 to 70, chapter 1, Oregon Laws 2015, the commission may require:

(a) A marijuana producer that holds a license under section 19, chapter 1, Oregon Laws 2015, or a marijuana wholesaler that holds a license under section 21, chapter 1, Oregon Laws 2015, to test usable marijuana before selling or transferring the usable marijuana; and

(b) A marijuana processor that holds a license under section 20, chapter 1, Oregon Laws 2015, or a marijuana wholesaler that holds a license under section 21, chapter 1, Oregon Laws 2015, to test cannabinoid products or cannabinoid concentrates or extracts before selling or transferring the cannabinoid products or cannabinoid concentrates or extracts.

(5) The authority and the commission may conduct random testing of marijuana items for the purpose of determining whether a person subject to testing under subsection (3) of this section or a licensee subject to testing under subsection (4) of this section is in compliance with this section.

(6) In adopting rules to implement this section, the authority and commission may not require a marijuana item to undergo the same test more than once unless the marijuana item is processed into a different type of marijuana item or the condition of the marijuana item has fundamentally changed.

(7) The testing of marijuana items as required by this section must be conducted by a laboratory licensed by the commission under section 93 of this 2015 Act and accredited by the authority under section 94 of this 2015 Act.

(8) In adopting rules under subsection (1) of this section, the authority:

(a) Shall consider the cost of a potential testing procedure and how that cost will affect the cost to the ultimate consumer of the marijuana item; and

(b) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety.

SECTION 93. (1) A laboratory that conducts testing of marijuana items as required by section 92 of this 2015 Act must have a license to operate at the premises at which the marijuana items are tested.

(2) For purposes of this section, the Oregon Liquor Control Commission shall adopt rules establishing:

(a) Qualifications to be licensed under this section, including that an applicant for licensure under this section must be accredited by the authority as described in section 94 of this 2015 Act;

(b) Processes for applying for and renewing a license under this section;

(c) Fees for applying for, receiving and renewing a license under this section; and

(d) Procedures for:

(A) Tracking usable marijuana, cannabinoid products and cannabinoid concentrates or extracts to be tested;

(B) Documenting and reporting test results; and

(C) Disposing of samples of usable marijuana, cannabinoid products and cannabinoid concentrates or extracts that have been tested.

(3) A license issued under this section must be renewed annually.

(4) The commission may inspect premises licensed under this section to ensure compliance with sections 91 to 99 of this 2015 Act and rules adopted under sections 91 to 99 of this 2015 Act.

(5) Subject to the applicable provisions of ORS chapter 183, the commission may refuse to issue or renew, or may suspend or revoke, a license issued under this section for violation of:

(a) A provision of sections 91 to 99 of this 2015 Act or a rule adopted under a provision of sections 91 to 99 of this 2015 Act; or

(b) A provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or a rule adopted under a provision of sections 3 to 70, chapter 1, Oregon Laws 2015.

(6) Fees adopted under subsection (2)(c) of this section must be reasonably calculated to pay the expenses incurred by the commission under sections 91 to 99 of this 2015 Act.

(7) Fee moneys collected under this section shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act and are continuously appropriated to the commission for the purpose of carrying out the duties, functions and powers of the commission under sections 91 to 99 of this 2015 Act.

SECTION 94. (1) A laboratory that conducts testing of marijuana items as required by section 92 of this 2015 Act must be accredited under ORS 438.605 to 438.620 and meet other qualifications as established by the Oregon Health Authority under this section.

(2) In addition to other qualifications required pursuant to ORS 438.605 to 438.620, the authority shall require an applicant for accreditation under ORS 438.605 to 438.620 for purposes related to the testing of marijuana items to:

(a) Complete an application;

(b) Undergo an onsite inspection; and

(c) Meet other applicable requirements, specifications and guidelines for testing marijuana items, as determined to be appropriate by the authority by rule.

(3) The authority may inspect premises licensed under section 93 of this 2015 Act to ensure compliance with sections 91 to 99 of this 2015 Act and rules adopted under sections 91 to 99 of this 2015 Act.

(4) Subject to the applicable provisions of ORS chapter 183, the authority may refuse to issue or renew, or may suspend or revoke, a laboratory's accreditation granted under this section and ORS 438.605 to 438.620 for violation of:

(a) A provision of sections 91 to 99 of this 2015 Act or a rule adopted under a provision of sections 91 to 99 of this 2015 Act; or

(b) A provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or a rule adopted under a provision of sections 3 to 70, chapter 1, Oregon Laws 2015.

(5) In establishing fees under ORS 438.620 for laboratories that test marijuana items, the authority shall establish fees that are reasonably calculated to pay the expenses incurred by the authority under this section and ORS 438.605 to 439.620 in accrediting laboratories that test marijuana items.

SECTION 95. Sections 91 to 99 of this 2015 Act do not apply to:

(1) A person responsible for a marijuana grow site under ORS 475.304 if the person is transferring usable marijuana or an immature marijuana plant, as defined in section 5, chapter 1, Oregon Laws 2015, to:

(a) A person who holds a registry identification card under ORS 475.309 and who designated the person responsible for the marijuana grow site to grow marijuana for the person who holds a registry identification card; or

(b) A person who has been designated as the primary caregiver under ORS 475.312 of a person who holds a registry identification card under ORS 475.309 and who designated the person responsible for the marijuana grow site to grow marijuana for the person who holds a registry identification card; or

(2) A person who has been designated as the primary caregiver under ORS 475.312 of a person who holds a registry identification card under ORS 475.309 if the person is transferring a marijuana item to the person who holds a registry identification card.

SECTION 96. Subject to the applicable provisions of ORS chapter 183, if an applicant or licensee violates a provision of sections 91 to 99 of this 2015 Act or a rule adopted under a provision of sections 91 to 99 of this 2015 Act, the Oregon Liquor Control Commission may

refuse to issue or renew, or may suspend or revoke, a license issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015.

SECTION 97. Subject to the applicable provisions of ORS chapter 183, if a person violates a provision of sections 91 to 99 of this 2015 Act or a rule adopted under a provision of sections 91 to 99 of this 2015 Act, the Oregon Health Authority may:

- (1) Refuse to register the person under ORS 475.300 to 475.346;
- (2) Suspend activities conducted by a registrant pursuant to ORS 475.300 to 475.346; or
- (3) Remove a registrant from a registry kept pursuant to ORS 475.300 to 475.346.

SECTION 98. (1) In addition to any other liability or penalty provided by law, the Oregon Health Authority may impose for each violation of a provision of sections 91 to 99 of this 2015 Act, or a rule adopted under a provision of sections 91 to 99 of this 2015 Act, a civil penalty that does not exceed \$500 for each day that the violation occurs.

(2) The authority shall impose civil penalties under this section in the manner provided by ORS 183.745.

(3) Moneys collected under this section shall be deposited in the Oregon Health Authority Fund established under ORS 413.101 and are continuously appropriated to the authority for the purpose of carrying out the duties, functions and powers of the authority under sections 91 to 99 of this 2015 Act.

SECTION 99. A person who holds a license under section 93 of this 2015 Act, and an employee of or other person who performs work for a person who holds a license under section 93 of this 2015 Act, are exempt from the criminal laws of this state for possession, delivery or manufacture of marijuana, aiding and abetting another in the possession, delivery or manufacture of marijuana, or any other criminal offense in which possession, delivery or manufacture of marijuana is an element, while performing activities related to testing as described in sections 91 to 99 of this 2015 Act.

PACKAGING, LABELING AND DOSAGE OPERATIVE JANUARY 1, 2016

SECTION 100. As used in sections 100 to 112 of this 2015 Act:

(1) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.

(2) "Cannabinoid concentrate or extract" means a substance obtained by separating cannabinoids from marijuana by a mechanical, chemical or other process.

(3) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate or extract or the dried leaves or flowers of marijuana have been incorporated.

(4)(a) "Cannabinoid product" means a cannabinoid edible or any other product intended for human consumption or use, including a product intended to be applied to a person's skin or hair, that contains cannabinoids or the dried leaves or flowers of marijuana.

(b) "Cannabinoid product" does not include:

- (A) Usable marijuana by itself;
- (B) A cannabinoid concentrate or extract by itself; or
- (C) Industrial hemp, as defined in ORS 571.300.

(5)(a) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(b) "Marijuana" does not include industrial hemp, as defined in ORS 571.300.

(6) "Marijuana item" means marijuana, usable marijuana, a cannabinoid product or a cannabinoid concentrate or extract.

(7) "Processing" means the compounding or conversion of marijuana into cannabinoid products or cannabinoid concentrates or extracts.

(8) "Producing" means:

- (a) Planting, cultivating, growing, trimming or harvesting marijuana; or

- (b) Drying marijuana leaves and flowers.
- (9)(a) "Usable marijuana" means the dried leaves and flowers of marijuana.
- (b) "Usable marijuana" does not include:
 - (A) The seeds, stalks and roots of marijuana; or
 - (B) Waste material that is a by-product of producing or processing marijuana.

SECTION 101. (1) As is necessary to protect the public health and safety, and in consultation with the Oregon Liquor Control Commission and the State Department of Agriculture, the Oregon Health Authority shall adopt rules establishing standards for the labeling of marijuana items, including but not limited to:

(a) Ensuring that usable marijuana, cannabinoid concentrates and extracts, cannabinoid edibles and other cannabinoid products have labeling that communicates:

- (A) Health and safety warnings;
- (B) Activation time;
- (C) Results of tests conducted pursuant to sections 91 to 99 of this 2015 Act;
- (D) Potency;
- (E) For cannabinoid products and cannabinoid concentrates and extracts, serving size and the number of servings included in a cannabinoid product or cannabinoid concentrate or extract package; and
- (F) Content of the marijuana item; and
- (b) Labeling that is in accordance with applicable state food labeling requirements for the same type of food product or potable liquid when the food product or potable liquid does not contain marijuana or cannabinoids.

(2) In adopting rules under ORS 475.300 to 475.346, the authority shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts transferred by a medical marijuana dispensary registered under ORS 475.314 to be labeled in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

(3) In adopting rules under sections 3 to 70, chapter 1, Oregon Laws 2015, the commission shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts sold or transferred by a marijuana retailer that holds a license under section 22, chapter 1, Oregon Laws 2015, to be labeled in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

(4) In adopting rules under subsection (1) of this section, the authority:

- (a) May establish different labeling standards for different varieties of usable marijuana and for different types of cannabinoid products and cannabinoid concentrates and extracts;
- (b) May establish different minimum labeling standards for persons registered under ORS 475.300 to 475.346 and persons licensed under sections 3 to 70, chapter 1, Oregon Laws 2015;
- (c) Shall consider the cost of a potential requirement and how that cost will affect the cost to the ultimate consumer of the marijuana item; and
- (d) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety.

SECTION 102. (1) As used in this section:

(a) "Licensee" has the meaning given that term in section 5, chapter 1, Oregon Laws 2015.

(b) "Registrant" means a person registered under ORS 475.300 to 475.346.

(2) The Oregon Liquor Control Commission may by rule require a licensee, and the Oregon Health Authority may by rule require a registrant, to submit a label intended for use on a marijuana item for preapproval by the commission before the licensee or registrant may sell or transfer a marijuana item bearing the label. The commission shall determine whether a label submitted under this section complies with section 101 of this 2015 Act and any rule adopted under section 101 of this 2015 Act.

(3) The commission may impose a fee for submitting a label for preapproval under this section that is reasonably calculated to not exceed the cost of administering this section.

SECTION 103. (1) As is necessary to protect the public health and safety, and in consultation with the Oregon Health Authority and the State Department of Agriculture, the Oregon Liquor Control Commission shall adopt rules establishing standards for the packaging of marijuana items, including but not limited to:

(a) Ensuring that usable marijuana, cannabinoid concentrates and extracts, cannabinoid edibles and other cannabinoid products are:

(A) Packaged in child-resistant safety packaging; and

(B) Not marketed in a manner that:

(i) Is untruthful or misleading;

(ii) Is attractive to minors; or

(iii) Otherwise creates a significant risk of harm to public health and safety; and

(b) Ensuring that cannabinoid edibles and other cannabinoid products are not packaged in a manner that is attractive to minors.

(2) In adopting rules under ORS 475.300 to 475.346, the authority shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts transferred by a medical marijuana dispensary registered under ORS 475.314 to be packaged in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

(3) In adopting rules under sections 3 to 70, chapter 1, Oregon Laws 2015, the commission shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts sold or transferred by a marijuana retailer that holds a license under section 22, chapter 1, Oregon Laws 2015, to be packaged in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

(4) In adopting rules under subsection (1) of this section the commission:

(a) May establish different packaging standards for different varieties of usable marijuana and for different types of cannabinoid products and cannabinoid concentrates and extracts;

(b) May establish different minimum packaging standards for persons registered under ORS 475.300 to 475.346 and persons licensed under sections 3 to 70, chapter 1, Oregon Laws 2015;

(c) May consider the effect on the environment of requiring certain packaging;

(d) Shall consider the cost of a potential requirement and how that cost will affect the cost to the ultimate consumer of the marijuana item; and

(e) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety.

SECTION 104. (1) As used in this section:

(a) "Licensee" has the meaning given that term in section 5, chapter 1, Oregon Laws 2015.

(b) "Registrant" means a person registered under ORS 475.300 to 475.346.

(2) The Oregon Liquor Control Commission may by rule require a licensee, and the Oregon Health Authority may by rule require a registrant, to submit packaging intended for a marijuana item for preapproval by the commission before the licensee or registrant may sell or transfer a marijuana item packaged in the packaging. The commission shall determine whether packaging submitted under this section complies with section 103 of this 2015 Act and any rule adopted under section 103 of this 2015 Act.

(3) The commission may impose a fee for submitting packaging for preapproval under this section that is reasonably calculated to not exceed the cost of administering this section.

SECTION 105. (1) The Oregon Health Authority shall adopt rules establishing:

(a) The maximum concentration of tetrahydrocannabinol that is permitted in a single serving of a cannabinoid product or cannabinoid concentrate or extract; and

(b) The number of servings that are permitted in a cannabinoid product or cannabinoid concentrate or extract package.

(2) In adopting rules under ORS 475.300 to 475.346, the authority shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts transferred by a medical marijuana dispensary registered under ORS 475.314 to meet the concentration standards adopted by rule pursuant to subsection (1) of this section.

(3) In adopting rules under sections 3 to 70, chapter 1, Oregon Laws 2015, the Oregon Liquor Control Commission shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts sold or transferred by a marijuana retailer that holds a license under section 22, chapter 1, Oregon Laws 2015, to meet the concentration standards adopted by rule pursuant to subsection (1) of this section.

SECTION 106. Sections 100 to 112 of this 2015 Act do not apply to:

(1) A person responsible for a marijuana grow site under ORS 475.304 if the person is transferring usable marijuana or an immature marijuana plant, as defined in section 5, chapter 1, Oregon Laws 2015, to:

(a) A person who holds a registry identification card under ORS 475.309 and who designated the person responsible for the marijuana grow site to grow marijuana for the person who holds a registry identification card; or

(b) A person who has been designated as the primary caregiver under ORS 475.312 of a person who holds a registry identification card under ORS 475.309, and who designated the person responsible for the marijuana grow site to grow marijuana for the person who holds a registry identification card; or

(2) A person who has been designated as the primary caregiver under ORS 475.312 of a person who holds a registry identification card under ORS 475.309 if the person is transferring a marijuana item to the person who holds a registry identification card.

SECTION 107. To ensure compliance with sections 100 to 112 of this 2015 Act and any rule adopted under sections 100 to 112 of this 2015 Act, the Oregon Health Authority may inspect the premises of:

(1) A medical marijuana dispensary registered under ORS 475.314; and

(2) A person that processes marijuana to test cannabinoid products or cannabinoid concentrates or extracts for the purpose of transferring the cannabinoid products or cannabinoid concentrates or extracts to a medical marijuana dispensary registered under ORS 475.314.

SECTION 108. To ensure compliance with sections 100 to 112 of this 2015 Act and any rule adopted under sections 100 to 112 of this 2015 Act, the Oregon Liquor Control Commission may inspect the premises of a person that holds a license under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015.

SECTION 109. Subject to the applicable provisions of ORS chapter 183, if a person violates a provision of sections 100 to 112 of this 2015 Act or a rule adopted under a provision of sections 100 to 112 of this 2015 Act, the Oregon Health Authority may:

(1) Refuse to register a person under ORS 475.300 to 475.346;

(2) Suspend activities conducted by a registrant pursuant to ORS 475.300 to 475.346; or

(3) Remove a registrant from a registry kept pursuant to ORS 475.300 to 475.346.

SECTION 110. Subject to the applicable provisions of ORS chapter 183, if the applicant or licensee violates a provision of sections 100 to 112 of this 2015 Act or a rule adopted under a provision of sections 100 to 112 of this 2015 Act, the Oregon Liquor Control Commission may refuse to issue or renew, or may suspend or revoke, a license issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015.

SECTION 111. (1) In addition to any other liability or penalty provided by law, the Oregon Health Authority may impose for each violation of a provision of sections 100 to 112 of this 2015 Act, or a rule adopted under a provision of sections 100 to 112 of this 2015 Act, a civil penalty that does not exceed \$500 for each day that the violation occurs.

(2) The authority shall impose civil penalties under this subsection in the manner provided by ORS 183.745.

(3) Moneys collected under this section shall be deposited in the Oregon Health Authority Fund established under ORS 413.101 and are continuously appropriated to the authority for the purpose of carrying out the duties, functions and powers of the authority under sections 100 to 112 of this 2015 Act.

SECTION 112. The rules of the Oregon Health Authority adopted under ORS 475.314 (8) as that statute was in effect before the operative date specified in section 178 of this 2015 Act continue in effect until superseded or repealed by rules of the authority or of the commission adopted under sections 100 to 112 of this 2015 Act.

**RESEARCH CERTIFICATE
OPERATIVE NOVEMBER 15, 2015**

SECTION 113. (1) The Oregon Liquor Control Commission, in consultation with the Oregon Health Authority and the State Department of Agriculture, shall establish a program for the purpose of identifying and certifying private and public researchers of cannabis.

(2)(a) The authority shall assist the commission in identifying candidates for certification under this section with respect to potential medical research.

(b) The department shall assist the commission in identifying candidates for certification under this section with respect to potential agricultural research.

(3) Subject to subsection (4) of this section, the commission shall adopt by rule or order:

(a) Qualifications for certification under this section;

(b) The term of a certificate issued under this section;

(c) Processes for applying for, receiving and renewing a certificate under this section;

(d) Procedures for tracking marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts received by and disposed or otherwise made use of by a person certified under this section; and

(e) Procedures for disposing or otherwise making use of marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

(4) In establishing qualifications under subsection (3) of this section, the commission shall consider the following:

(a) A research applicant's access to funding and the overall cost of the proposed research;

(b) The overall benefit of an applicant's proposed research to this state's cannabis industry or to public health and safety; and

(c) Legal barriers to conducting the proposed research or legal risks associated with conducting the proposed research.

(5) A person certified under this section:

(a) May receive marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts from a licensee or a registrant under ORS 475.300 to 475.346; and

(b) May not sell or otherwise transfer marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates or cannabinoid extracts to any other person, except as provided in rules adopted by the commission under subsection (3)(e) of this section.

(6) Except as otherwise provided by the commission by rule, rules adopted by the commission for the purpose of administering and enforcing sections 3 to 70, chapter 1, Oregon Laws 2015, with respect to licensees and licensee representatives apply to persons certified under this section and persons employed by or who otherwise perform work for persons certified under this section.

(7) A person who is certified under this section, and an employee of or other person who performs work for a person certified under this section, is exempt from the criminal laws of this state for possession, delivery or manufacture of marijuana, aiding and abetting another in the possession, delivery and manufacture of marijuana, or any other criminal of-

fense in which possession, delivery or manufacture of marijuana is an element, while performing activities related to conducting research as described in this section.

**CANNABINOID EDIBLES
OPERATIVE JANUARY 1, 2016**

SECTION 114. (1) Notwithstanding the authority granted to the State Department of Agriculture under ORS chapters 571, 618 and 633 and ORS 632.206 to 632.260, 632.275 to 632.290, 632.450 to 632.490, 632.516 to 632.625, 632.705 to 632.815, 632.835 to 632.850 and 632.900 to 632.985, the department may not exercise authority over marijuana items or a licensee, except that ORS 618.121 to 618.161, 618.991, 618.995, 633.311 to 633.479, 633.992 and 633.994 apply to marijuana items or to a licensee.

(2) In exercising its authority under ORS chapter 616, the department may not:

(a) Establish standards for marijuana as a food additive, as defined in ORS 616.205;

(b) Consider marijuana to be an adulterant, unless the concentration of a cannabinoid in a cannabinoid product, cannabinoid concentrate or cannabinoid extract exceeds acceptable levels established by the Oregon Health Authority by rule; or

(c) Apply ORS 616.256, 616.265, 616.270 or 616.275 to cannabinoid edibles or enforce ORS 616.256, 616.265, 616.270 or 616.275 with respect to cannabinoid edibles.

SECTION 115. ORS 616.010 is amended to read:

616.010. The duty of administration and enforcement of all regulatory legislation applying to:

(1) The production, processing and distribution of all food products or commodities of agricultural origin shall, in addition to such further legislation as shall specifically name the State Department of Agriculture as the administering agency, be performed by the department to the exclusion of any other department not so specifically named, **except as provided in section 114 of this 2015 Act.**

(2) The sanitation of establishments where food or drink is consumed on the premises where sold, or to sanitary practices used in such establishments, shall be performed by the Oregon Health Authority.

**MEDICAL MARIJUANA GROW SITE OPT-IN
OPERATIVE JANUARY 1, 2016**

SECTION 116. (1) A person responsible for a marijuana grow site under ORS 475.304 may apply for a license under section 19, chapter 1, Oregon Laws 2015, to produce marijuana at the address of the marijuana grow site, provided that all individuals registered with the Oregon Health Authority to produce marijuana at the address are listed on the application submitted to the Oregon Liquor Control Commission under section 28, chapter 1, Oregon Laws 2015.

(2) Notwithstanding any other provision of sections 3 to 70, chapter 1, Oregon Laws 2015, the commission may issue a license under section 19, chapter 1, Oregon Laws 2015, to a person responsible for a marijuana grow site under ORS 475.304 if the person responsible for the marijuana grow site:

(a) Meets any criminal background check requirements established by the commission by rule;

(b) Agrees to be subject to the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, including section 59, chapter 1, Oregon Laws 2015, and section 34 of this 2015 Act, and rules adopted under sections 3 to 70, chapter 1, Oregon Laws 2015, that apply to marijuana producers; and

(c) Submits proof, in a form and manner prescribed by the commission, of having obtained the permission to apply for licensure under section 19, chapter 1, Oregon Laws 2015,

of each individual who holds a registry identification card issued under ORS 475.309 for whom the person produces marijuana at the address of the marijuana grow site.

(3) The commission by rule or order may waive the application of any rule adopted under sections 3 to 70, chapter 1, Oregon Laws 2015, to a person responsible for a marijuana grow site that holds a license under section 19, chapter 1, Oregon Laws 2015.

(4) A person responsible for a marijuana grow site that holds a license under section 19, chapter 1, Oregon Laws 2015:

(a) May not possess more than the amount or number of marijuana plants permitted pursuant to ORS 475.300 to 475.346;

(b) Must allow each marijuana plant to be tracked using the system developed and maintained under section 23 of this 2015 Act;

(c) May sell immature marijuana plants and usable marijuana in excess of amounts produced for individuals who hold a registry identification card issued under ORS 475.309 to a person who holds a license under section 20, 21 or 22, chapter 1, Oregon Laws 2015, in accordance with rules adopted by the commission; and

(d) May transfer marijuana and usable marijuana to other registrants under ORS 475.300 to 475.346 in accordance with rules adopted by the authority.

(5) In a form and manner prescribed by the commission, a person responsible for a marijuana grow site that holds a license under section 19, chapter 1, Oregon Laws 2015, may surrender the person's license. If the person surrenders the person's license, the person is no longer subject to the provisions of this section.

(6) Notwithstanding ORS 475.331, the authority may provide information to the commission as is necessary for the commission to determine whether a person responsible for a marijuana grow site that holds a license under section 19, chapter 1, Oregon Laws 2015, is in compliance with this section.

(7) This section does not prohibit or otherwise restrict the duties, functions and powers of a person responsible for a marijuana grow site as set forth in ORS 475.300 to 475.346, except that the person is not subject to any requirement related to the reporting or tracking of mature marijuana plants and usable marijuana.

CANNABIS EDUCATION PROGRAM EFFECTIVE ON PASSAGE

SECTION 117. (1) As part of the comprehensive alcohol and drug abuse policy and implementation plan described in ORS 336.222, the Oregon Health Authority, State Board of Education and Alcohol and Drug Policy Commission shall collaborate on developing marijuana abuse prevention curricula and public information programs for students, parents, teachers, administrators and school board members.

(2) In the manner provided by ORS 192.245, the authority shall report on the implementation of this section to the Legislative Assembly on or before February 1 of each odd-numbered year.

SECTION 118. Notwithstanding section 117 (2) of this 2015 Act, the Oregon Health Authority shall first report on the implementation of section 117 of this 2015 Act and may make recommendations for legislation, including recommendations related to the use of moneys collected as a tax from businesses involved in marijuana operations, to the Legislative Assembly on or before February 1, 2016.

CRIMES EFFECTIVE ON PASSAGE

SECTION 119. ORS 475.858 is amended to read:

475.858. (1) It is unlawful for any person to manufacture marijuana within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.

(2) Unlawful manufacture of marijuana within 1,000 feet of a school is a Class A felony.

(3) This section does not apply to:

(a) A licensee or licensee representative, as those terms are defined in section 5, chapter 1, Oregon Laws 2015, that is engaged in lawful activities; or

(b) A person acting within the scope of and in compliance with section 6 (1), chapter 1, Oregon Laws 2015.

SECTION 120. ORS 475.862 is amended to read:

475.862. (1) It is unlawful for any person to deliver marijuana within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.

(2) Unlawful delivery of marijuana within 1,000 feet of a school is a Class A felony.

(3) This section does not apply to:

(a) A licensee or licensee representative, as those terms are defined in section 5, chapter 1, Oregon Laws 2015, that is engaged in lawful activities; or

(b) A person acting within the scope of and in compliance with section 6 (1), chapter 1, Oregon Laws 2015.

SECTION 121. ORS 475.856, as amended by section 77, chapter 1, Oregon Laws 2015, is amended to read:

475.856. (1) As used in this section, "homegrown," "household," "license" and "licensee representative" have the meanings given those terms in section 5, chapter 1, Oregon Laws 2015.

[(1)] (2) Except for licensees and licensee representatives that are engaged in lawful activities [as defined in subsections (10) and (11) of section 5 of this Act], and except for a person acting within the scope of and in compliance with section 6 (1), chapter 1, Oregon Laws 2015 [subsection (1) of section 6 of this Act], it is unlawful for any person to manufacture marijuana.

[(2)] (3) Unlawful manufacture of marijuana is a Class [B] C felony.

[(3)] (4) Notwithstanding subsection [(2)] (3) of this section, unlawful manufacture of marijuana is a Class B misdemeanor[,] if a person 21 years of age or older manufactures homegrown marijuana at a household and the total number of homegrown marijuana plants at the household exceeds four marijuana plants but does not exceed eight marijuana plants.

[(4) As used in subsection (3) of this section, the terms "homegrown" and "household" have the meanings given to them in section 5 of this Act.]

SECTION 122. ORS 475.860, as amended by section 78, chapter 1, Oregon Laws 2015, is amended to read:

475.860. (1) Except for licensees and licensee representatives, as those terms are defined in section 5, chapter 1, Oregon Laws 2015, that are engaged in lawful activities [as defined in subsections (10) and (11) of section 5 of this Act], and except for a person acting within the scope of and in compliance with section 6 (1), chapter 1, Oregon Laws 2015 [subsection (1) of section 6 of this Act], it is unlawful for any person to deliver marijuana.

(2) Unlawful delivery of marijuana is a[:] Class A misdemeanor.

[(a) Class B felony if the delivery is for consideration.]

[(b) Class C felony if the delivery is for no consideration.]

(3) Notwithstanding subsection (2) of this section, unlawful delivery of marijuana is a:

(a) Class A [misdemeanor] violation, if the delivery is for no consideration and consists of less than one avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae; or

(b) Violation, if the delivery is for no consideration and consists of less than five grams of the dried leaves, stems and flowers of the plant Cannabis family Moraceae. A violation under this paragraph is a specific fine violation. The presumptive fine for a violation under this paragraph is \$650.

(4) Notwithstanding subsections (2) and (3) of this section, unlawful delivery of marijuana is a **Class C felony, if the delivery is to a person under 18 years of age and the defendant is at least 21 years of age.**

[(a) Class A felony, if the delivery is to a person under 18 years of age and the defendant is at least 18 years of age and is at least three years older than the person to whom the marijuana is delivered; or]

[(b) Class C misdemeanor, if the delivery:]

[(A) Is for no consideration;]

[(B) Consists of less than five grams of the dried leaves, stems and flowers of the plant Cannabis family Moraceae;]

[(C) Takes place in a public place, as defined in ORS 161.015, that is within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors; and]

[(D) Is to a person who is 18 years of age or older.]

SECTION 123. ORS 475.864, as amended by section 79, chapter 1, Oregon Laws 2015, is amended to read:

475.864. (1) As used in subsections (2) to (4) of this section:

(a) "Marijuana" means the leaves, stems[,] and flowers of the plant Cannabis family Moraceae.

(b) "Marijuana product" has the meaning given the term "marijuana" in ORS 475.005 (16), but does not include the leaves, stems and flowers of the plant Cannabis family Moraceae.

(2) It is unlawful for any person under 21 years of age knowingly or intentionally to possess marijuana or marijuana product.

(3)(a) Unlawful possession of *[four]* **more than eight** avoirdupois ounces *[or more]* of marijuana by a person under 21 years of age is a Class *[C felony]* **A misdemeanor.**

(b) Unlawful possession of **more than** one avoirdupois ounce of marijuana *[or more]*, but less than *[four]* **eight** avoirdupois ounces, by a person under 21 years of age is a Class B misdemeanor.

(c) Unlawful possession of *[less than]* one avoirdupois ounce **or less** of marijuana by a person under 21 years of age is a specific fine violation. The presumptive fine for a violation under this paragraph is \$650.

(4)(a) Unlawful possession of *[one-quarter avoirdupois ounce or more]* **more than 16 avoirdupois ounces** of marijuana product **in a solid form or more than 72 ounces of marijuana product in a liquid form** by a person under 21 years of age is a Class *[C felony]* **A misdemeanor.**

(b) Unlawful possession of *[less than one-quarter avoirdupois ounce]* **16 avoirdupois ounces or less** of marijuana product **in a solid form or 72 ounces or less of marijuana product in a liquid form** by a person under 21 years of age is a Class B misdemeanor.

(5) As used in subsections (6) to (8) of this section, *[the terms]* "cannabinoid concentrate," "cannabinoid extract," "cannabinoid product," "licensee," "licensee representative," "marijuana," *["marijuana extracts," "marijuana products,"]* "marijuana retailer," "public place[.]" and "usable marijuana" have the meanings given *[to them]* **those terms** in section 5, chapter 1, Oregon Laws 2015 *[of this Act]*.

(6) Except for licensees and licensee representatives **acting in accordance with sections 3 to 70, chapter 1, Oregon Laws 2015, and any rule adopted under sections 3 to 70, chapter 1, Oregon Laws 2015,** it is unlawful for any person 21 years of age or older knowingly or intentionally to possess:

(a) More than one ounce of usable marijuana in a public place.

(b) More than eight ounces of usable marijuana.

(c) More than *[sixteen]* **16 ounces** of *[marijuana]* **cannabinoid products** in solid form **or cannabinoid concentrates.**

(d) More than *[seventy-two]* **72 ounces** of *[marijuana]* **cannabinoid products** in liquid form.

(e) More than one ounce of *[marijuana extracts]* **cannabinoid extracts.**

(f) *[Any marijuana extracts that were]* **A cannabinoid extract that was not purchased from a *[licensed]* marijuana retailer that holds a license under section 22, chapter 1, Oregon Laws 2015.**

(7) A violation of *[paragraphs (a) to (e) of]* subsection (6)(a) to (e) of this section is a:

(a) Class *[C felony]* **A misdemeanor**, if the amount possessed is more than four times the applicable maximum amount specified in subsection (6)(a) to (e) of this section;

(b) Class B misdemeanor, if the amount possessed is more than two times, but not more than four times, the applicable maximum amount specified in subsection (6)(a) to (e) of this section; or

(c) Class B violation, if the amount possessed is not more than two times the applicable maximum amount specified in subsection (6)(a) to (e) of this section.

(8) A violation of *[paragraph (f) of]* subsection (6)(f) of this section is a:

(a) Class C felony, if the amount possessed is more than one-quarter ounce of *[such marijuana extracts]* **the cannabinoid extract**; or

(b) Class B misdemeanor, if the amount possessed is not more than one-quarter ounce of *[such marijuana extracts]* **the cannabinoid extract**.

SECTION 124. ORS 475.752, as amended by section 76, chapter 1, Oregon Laws 2015, is amended to read:

475.752. (1) Except for licensees and licensee representatives, **as those terms are defined in section 5, chapter 1, Oregon Laws 2015, that are engaged in lawful activities *[as defined in subsections (10) and (11) of section 5 of this Act]***, and except for a person acting within the scope of and in compliance with **section 6 (1), chapter 1, Oregon Laws 2015 *[subsection (1) of section 6 of this Act]***, and except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to manufacture or deliver a controlled substance. Any person who violates this subsection with respect to:

(a) A controlled substance in Schedule I, is guilty of a Class A felony, except as otherwise provided in ORS 475.886 and 475.890.

(b) A controlled substance in Schedule II, is guilty of a Class B felony, except as otherwise provided in ORS 475.858, 475.860, 475.862, 475.878, 475.880, 475.882, 475.904 and 475.906.

(c) A controlled substance in Schedule III, is guilty of a Class C felony, except as otherwise provided in ORS 475.904 and 475.906.

(d) A controlled substance in Schedule IV, is guilty of a Class B misdemeanor.

(e) A controlled substance in Schedule V, is guilty of a Class C misdemeanor.

(2) Except as authorized in ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to create or deliver a counterfeit substance. Any person who violates this subsection with respect to:

(a) A counterfeit substance in Schedule I, is guilty of a Class A felony.

(b) A counterfeit substance in Schedule II, is guilty of a Class B felony.

(c) A counterfeit substance in Schedule III, is guilty of a Class C felony.

(d) A counterfeit substance in Schedule IV, is guilty of a Class B misdemeanor.

(e) A counterfeit substance in Schedule V, is guilty of a Class C misdemeanor.

(3) It is unlawful for any person knowingly or intentionally to possess a controlled substance, other than marijuana, unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980. Any person who violates this subsection with respect to:

(a) A controlled substance in Schedule I, is guilty of a Class B felony, except as otherwise provided in ORS 475.894.

(b) A controlled substance in Schedule II, is guilty of a Class C felony, except as otherwise provided in ORS 475.864.

(c) A controlled substance in Schedule III, is guilty of a Class A misdemeanor.

(d) A controlled substance in Schedule IV, is guilty of a Class C misdemeanor.

(e) A controlled substance in Schedule V, is guilty of a violation.

(4) In any prosecution under this section for manufacture, possession or delivery of that plant of the genus *Lophophora* commonly known as peyote, it is an affirmative defense that the peyote is being used or is intended for use:

- (a) In connection with the good faith practice of a religious belief;
- (b) As directly associated with a religious practice; and
- (c) In a manner that is not dangerous to the health of the user or others who are in the proximity of the user.

(5) The affirmative defense created in subsection (4) of this section is not available to any person who has possessed or delivered the peyote while incarcerated in a correctional facility in this state.

(6)(a) Notwithstanding subsection (1) of this section, a person who unlawfully manufactures or delivers a controlled substance in Schedule IV and who thereby causes death to another person is guilty of a Class C felony.

(b) For purposes of this subsection, causation is established when the controlled substance plays a substantial role in the death of the other person.

SECTION 125. ORS 161.705, as amended by section 2, chapter ____, Oregon Laws 2015 (Enrolled Senate Bill 364), is amended to read:

161.705. Notwithstanding ORS 161.525, the court may enter judgment of conviction for a Class A misdemeanor and make disposition accordingly when:

- (1)(a) A person is convicted of any Class C felony; or
- [(b) A person is convicted of a Class B felony pursuant to ORS 475.860 (2)(a); or]
- [(c)] (b) A person convicted of a felony described in paragraph (a) [or (b)] of this subsection, of possession or delivery of marijuana constituting a Class B felony, or of a Class A felony pursuant to ORS 166.720, has successfully completed a sentence of probation; and

(2) The court, considering the nature and circumstances of the crime and the history and character of the defendant, believes that it would be unduly harsh to sentence the defendant for a felony.

SECTION 126. ORS 475.900 is amended to read:

475.900. (1) A violation of ORS 475.752, 475.806 to 475.894, 475.904 or 475.906 shall be classified as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if:

(a) The violation constitutes delivery or manufacture of a controlled substance and involves substantial quantities of a controlled substance. For purposes of this paragraph, the following amounts constitute substantial quantities of the following controlled substances:

- (A) Five grams or more of a mixture or substance containing a detectable amount of heroin;
- (B) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;
- (C) Ten grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers or salts of its isomers;
- (D) Two hundred or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;
- (E) Sixty grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin; or
- (F) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:

- (i) 3,4-methylenedioxyamphetamine;
- (ii) 3,4-methylenedioxymethamphetamine; or
- (iii) 3,4-methylenedioxy-N-ethylamphetamine.

(b) The violation constitutes possession, delivery or manufacture of a controlled substance and the possession, delivery or manufacture is a commercial drug offense. A possession, delivery or manufacture is a commercial drug offense for purposes of this subsection if it is accompanied by at least three of the following factors:

(A) The delivery was of heroin, cocaine, methamphetamine, lysergic acid diethylamide, psilocybin or psilocin and was for consideration;

(B) The offender was in possession of \$300 or more in cash;

(C) The offender was unlawfully in possession of a firearm or other weapon as described in ORS 166.270 (2), or the offender used, attempted to use or threatened to use a deadly or dangerous weapon as defined in ORS 161.015, or the offender was in possession of a firearm or other deadly or dangerous weapon as defined in ORS 161.015 for the purpose of using it in connection with a controlled substance offense;

(D) The offender was in possession of materials being used for the packaging of controlled substances such as scales, wrapping or foil, other than the material being used to contain the substance that is the subject of the offense;

(E) The offender was in possession of drug transaction records or customer lists;

(F) The offender was in possession of stolen property;

(G) Modification of structures by painting, wiring, plumbing or lighting to facilitate a controlled substance offense;

(H) The offender was in possession of manufacturing paraphernalia, including recipes, precursor chemicals, laboratory equipment, lighting, ventilating or power generating equipment;

(I) The offender was using public lands for the manufacture of controlled substances;

(J) The offender had constructed fortifications or had taken security measures with the potential of injuring persons; or

(K) The offender was in possession of controlled substances in an amount greater than:

(i) Three grams or more of a mixture or substance containing a detectable amount of heroin;

(ii) Eight grams or more of a mixture or substance containing a detectable amount of cocaine;

(iii) Eight grams or more of a mixture or substance containing a detectable amount of methamphetamine;

(iv) Twenty or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;

(v) Ten grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin; or

(vi) Four grams or more or 20 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:

(I) 3,4-methylenedioxyamphetamine;

(II) 3,4-methylenedioxymethamphetamine; or

(III) 3,4-methylenedioxy-N-ethylamphetamine.

(c) The violation constitutes a violation of ORS 475.848, 475.852, 475.862, 475.868, 475.872, 475.878, 475.882, 475.888, 475.892 or 475.904.

(d) The violation constitutes manufacturing methamphetamine and the manufacturing consists of:

(A) A chemical reaction involving one or more precursor substances for the purpose of manufacturing methamphetamine; or

(B) Grinding, soaking or otherwise breaking down a precursor substance for the purpose of manufacturing methamphetamine.

(e) The violation constitutes [a violation of ORS 475.860 (4)(a) or] a violation of ORS 475.906 (1) or (2) that is not described in ORS 475.907.

(2) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as crime category 6 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if:

(a) The violation constitutes delivery of heroin, cocaine, methamphetamine or 3,4-methylenedioxyamphetamine, 3,4-methylenedioxymethamphetamine or 3,4-methylenedioxy-N-ethylamphetamine and is for consideration.

(b) The violation constitutes possession of:

(A) Five grams or more of a mixture or substance containing a detectable amount of heroin;

(B) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;

(C) Ten grams or more of a mixture or substance containing a detectable amount of methamphetamine;

(D) Two hundred or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;

(E) Sixty grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin; or

(F) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:

- (i) 3,4-methylenedioxyamphetamine;
- (ii) 3,4-methylenedioxymethamphetamine; or
- (iii) 3,4-methylenedioxy-N-ethylamphetamine.

(3) Any felony violation of ORS 475.752 or 475.806 to 475.894 not contained in subsection (1) or (2) of this section shall be classified as:

(a) Crime category 4 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation involves delivery or manufacture of a controlled substance; or

(b) Crime category 1 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation involves possession of a controlled substance.

(4) In order to prove a commercial drug offense, the state shall plead in the accusatory instrument sufficient factors of a commercial drug offense under subsections (1) and (2) of this section. The state has the burden of proving each factor beyond a reasonable doubt.

(5) As used in this section, "mixture or substance" means any mixture or substance, whether or not the mixture or substance is in an ingestible or marketable form at the time of the offense.

SECTION 127. ORS 475.904 is amended to read:

475.904. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to manufacture or deliver a schedule I, II or III controlled substance within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.

(2) Unlawful manufacture or delivery of a controlled substance within 1,000 feet of a school is a Class A felony, *except as otherwise provided in ORS 475.860*.

(3) This section does not apply to:

(a) A licensee or licensee representative, as those terms are defined in section 5, chapter 1, Oregon Laws 2015, that is engaged in lawful activities; or

(b) A person acting within the scope of and in compliance with section 6 (1), chapter 1, Oregon Laws 2015.

SECTION 128. The amendments to statutes by sections 119 to 127 of this 2015 Act apply to conduct occurring on or after the effective date of this 2015 Act.

SECTION 129. When a person convicted of a marijuana offense based on conduct that occurs before the effective date of this 2015 Act files a motion for a court order setting aside the conviction pursuant to ORS 137.225, the court shall consider the offense to be classified under ORS 161.535 or 161.555 as if the conduct occurred on or after the effective date of this 2015 Act, or if the offense is no longer a crime, the court shall consider the offense to be classified as a Class C misdemeanor, when determining if the person is eligible for the order.

RETAIL DRUG OUTLETS EFFECTIVE ON PASSAGE

SECTION 130. Section 131 of this 2015 Act is added to and made a part of ORS chapter 689.

SECTION 131. (1) The State Board of Pharmacy shall establish by rule instructions for the disposal of marijuana left behind by individuals visiting retail drug outlets.

(2) At a minimum, the instructions established under subsection (1) of this section must:

(a) Require an employee or supervisor of the retail drug outlet to notify law enforcement upon discovering marijuana at the site; and

(b) Include procedures for destroying the marijuana so that it can no longer be used for human consumption.

(3) A person acting under and in accordance with this section is exempt from the criminal laws of this state for any criminal offense in which possession of marijuana is an element.

**TASK FORCE
EFFECTIVE ON PASSAGE**

SECTION 132. (1)(a) The Task Force on Cannabis Environmental Best Practices is established, consisting of 13 members appointed as follows:

(A) The President of the Senate shall appoint one member from among members of the Senate;

(B) The Senate Minority Leader shall appoint one member from among members of the Senate;

(C) The Speaker of the House shall appoint one members from among members of the House of Representatives;

(D) The House Minority Leader shall appoint one member from among members of the House of Representatives; and

(E) The Governor shall appoint nine representatives from among the following:

(i) One individual who represents utilities;

(ii) One individual who represents electricians;

(iii) Two individuals who represent the cannabis industry;

(iv) One individual who represents the State Department of Agriculture;

(v) One individual who represents the Water Resources Department;

(vi) One individual who represents the Public Utility Commission;

(vii) One individual who represents the State Department of Energy; and

(viii) One individual who the Energy Trust of Oregon.

(b) In making appointments under paragraph (a) of this subsection, the President of the Senate, the Senate Minority Leader, the Speaker of the House and the House Minority Leader shall appoint, if available, members of the Senate and members of the House of Representatives who served on the Joint Committee on Implementing Measure 91 during the 2015 regular session of the Legislative Assembly.

(2) The task force shall study the use of electricity and water by, and the agricultural practices associated with, the growing of cannabis by persons who hold a license under section 19, chapter 1, Oregon Laws 2015, and by persons who are responsible for a marijuana grow site under ORS 475.304. As part of the report submitted under subsection (9) of this section, the task force shall include suggestions related to environmental best practices for the propagating, producing and harvesting of cannabis.

(3) A majority of the voting members of the task force constitutes a quorum for the transaction of business.

(4) Official action by the task force requires the approval of a majority of the voting members of the task force.

(5) The task force shall elect one of its members to serve as chairperson.

(6) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(7) The task force shall meet at times and places specified by the call of the chairperson or of a majority of the voting members of the task force.

(8) The task force may adopt rules necessary for the operation of the task force.

(9) The task force shall submit a report in the manner provided by ORS 192.245, and may include recommendations for legislation, to an interim committee of the Legislative Assembly related to the regulation of cannabis as appropriate no later than September 15, 2016.

(10) The Oregon Liquor Control Commission shall provide staff support to the task force.

(11) Members of the task force who are not members of the Legislative Assembly are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions of the task force shall be paid out of funds appropriated to Oregon Liquor Control Commission for purposes of the task force.

(12) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the task force consider necessary to perform their duties.

**LOCAL OPTION
EFFECTIVE ON PASSAGE**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Is registered under section 85 of this 2015 Act on or before the date on which the governing body adopts the ordinance; and

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

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

(a) Marijuana processing sites registered under section 85 of this 2015 Act;

(b) Medical marijuana dispensaries registered under ORS 475.314;

(c) Marijuana producers licensed under section 19, chapter 1, Oregon Laws 2015;

(d) Marijuana processors licensed under section 20, chapter 1, Oregon Laws 2015;

(e) Marijuana wholesalers licensed under section 21, chapter 1, Oregon Laws 2015;

(f) Marijuana retailers licensed under section 22, chapter 1, Oregon Laws 2015; or

(g) Any combination of the entities described in this subsection.

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

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

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

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

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

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

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

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

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

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

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

(a) Is registered under section 85 of this 2015 Act on or before the date on which the governing body adopts the ordinance; and

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

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

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

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

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

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

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

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

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

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

OTHER AMENDMENTS

(Operative January 1, 2016)

SECTION 137. ORS 133.005 is amended to read:

133.005. As used in ORS 133.005 to 133.400 and 133.410 to 133.450, unless the context requires otherwise:

(1) "Arrest" means to place a person under actual or constructive restraint or to take a person into custody for the purpose of charging that person with an offense. A "stop" as authorized under ORS 131.605 to 131.625 is not an arrest.

(2) "Federal officer" means a special agent or law enforcement officer employed by a federal agency who is empowered to effect an arrest with or without a warrant for violations of the United States Code and who is authorized to carry firearms in the performance of duty.

(3) "Peace officer" means:

(a) A member of the Oregon State Police;

(b) A sheriff, constable, marshal, municipal police officer or reserve officer or a police officer commissioned by a university under ORS 352.383 or 353.125;

(c) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or any other state;

(d) An investigator of the Criminal Justice Division of the Department of Justice of the State of Oregon;

(e) A humane special agent as defined in ORS 181.435;

(f) A [*liquor enforcement inspector*] **regulatory specialist** exercising authority described in ORS 471.775 (2);

(g) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011; or

(h) A judicial marshal appointed under ORS 1.177 who is trained pursuant to ORS 181.647.

(4) "Reserve officer" means an officer or member of a law enforcement agency who is:

(a) A volunteer or employed less than full-time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission or the Governor or a member of the Department of State Police;

(b) Armed with a firearm; and

(c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security.

SECTION 138. ORS 133.005, as amended by section 39, chapter 644, Oregon Laws 2011, section 7, chapter 54, Oregon Laws 2012, section 4, chapter 67, Oregon Laws 2012, section 5, chapter 154, Oregon Laws 2013, and section 9, chapter 180, Oregon Laws 2013, is amended to read:

133.005. As used in ORS 133.005 to 133.400 and 133.410 to 133.450, unless the context requires otherwise:

(1) "Arrest" means to place a person under actual or constructive restraint or to take a person into custody for the purpose of charging that person with an offense. A "stop" as authorized under ORS 131.605 to 131.625 is not an arrest.

(2) "Federal officer" means a special agent or law enforcement officer employed by a federal agency who is empowered to effect an arrest with or without a warrant for violations of the United States Code and who is authorized to carry firearms in the performance of duty.

(3) "Peace officer" means:

(a) A member of the Oregon State Police;

(b) A sheriff, constable, marshal, municipal police officer or reserve officer or a police officer commissioned by a university under ORS 352.383 or 353.125;

(c) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or any other state;

(d) An investigator of the Criminal Justice Division of the Department of Justice of the State of Oregon;

(e) A humane special agent as defined in ORS 181.435;

(f) A [*liquor enforcement inspector*] **regulatory specialist** exercising authority described in ORS 471.775 (2); or

(g) A judicial marshal appointed under ORS 1.177 who is trained pursuant to ORS 181.647.

(4) "Reserve officer" means an officer or member of a law enforcement agency who is:

(a) A volunteer or employed less than full-time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission or the Governor or a member of the Department of State Police;

(b) Armed with a firearm; and

(c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security.

SECTION 139. ORS 133.525 is amended to read:

133.525. As used in ORS 133.525 to 133.703, unless the context requires otherwise:

(1) "Judge" means any judge of the circuit court, the Court of Appeals, the Supreme Court, any justice of the peace or municipal judge authorized to exercise the powers and perform the duties of a justice of the peace.

(2) "Police officer" means:

(a) A member of the Oregon State Police;

(b) A sheriff or municipal police officer, a police officer commissioned by a university under ORS 352.383 or 353.125 or an authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011;

(c) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or any other state;

(d) An investigator of the Criminal Justice Division of the Department of Justice;

(e) A humane special agent as defined in ORS 181.435; or

(f) A [*liquor enforcement inspector*] **regulatory specialist** exercising authority described in ORS 471.775 (2).

SECTION 140. ORS 133.525, as amended by section 40, chapter 644, Oregon Laws 2011, section 9, chapter 54, Oregon Laws 2012, section 6, chapter 67, Oregon Laws 2012, and section 11, chapter 180, Oregon Laws 2013, is amended to read:

133.525. As used in ORS 133.525 to 133.703, unless the context requires otherwise:

(1) "Judge" means any judge of the circuit court, the Court of Appeals, the Supreme Court, any justice of the peace or municipal judge authorized to exercise the powers and perform the duties of a justice of the peace.

- (2) "Police officer" means:
- (a) A member of the Oregon State Police;
 - (b) A sheriff or municipal police officer or a police officer commissioned by a university under ORS 352.383 or 353.125;
 - (c) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or any other state;
 - (d) An investigator of the Criminal Justice Division of the Department of Justice;
 - (e) A humane special agent as defined in ORS 181.435; or
 - (f) A [*liquor enforcement inspector*] **regulatory specialist** exercising authority described in ORS 471.775 (2).

SECTION 141. ORS 133.721 is amended to read:

133.721. As used in ORS 41.910 and 133.721 to 133.739, unless the context requires otherwise:

(1) "Aggrieved person" means a person who was a party to any wire, electronic or oral communication intercepted under ORS 133.724 or 133.726 or a person against whom the interception was directed and who alleges that the interception was unlawful.

(2) "Contents," when used with respect to any wire, electronic or oral communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport or meaning of that communication.

(3) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a radio, electromagnetic, photoelectronic or photo-optical system, or transmitted in part by wire, but does not include:

- (a) Any oral communication or any communication that is completely by wire; or
- (b) Any communication made through a tone-only paging device.

(4) "Electronic, mechanical or other device" means any device or apparatus that can be used to intercept a wire, electronic or oral communication other than:

(a) Any telephone or telegraph instrument, equipment or facility, or any component thereof that is furnished to the subscriber or user by a telecommunications carrier in the ordinary course of its business and that is being used by the subscriber or user in the ordinary course of its business or being used by a telecommunications carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of official duties; or

(b) A hearing aid or similar device being used to correct subnormal hearing to not better than normal.

(5) "Intercept" means the acquisition, by listening or recording, of the contents of any wire, electronic or oral communication through the use of any electronic, mechanical or other device.

(6) "Investigative or law enforcement officer" means:

(a) An officer or other person employed to investigate or enforce the law by:

(A) A county sheriff or municipal police department, or a police department established by a university under ORS 352.383 or 353.125;

(B) The Oregon State Police, the Department of Corrections, the Attorney General or a district attorney; or

(C) Law enforcement agencies of other states or the federal government;

(b) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011; or

(c) A [*liquor enforcement inspector*] **regulatory specialist** exercising authority described in ORS 471.775 (2).

(7) "Oral communication" means:

(a) Any oral communication, other than a wire or electronic communication, uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation; or

(b) An utterance by a person who is participating in a wire or electronic communication, if the utterance is audible to another person who, at the time the wire or electronic communication occurs, is in the immediate presence of the person participating in the communication.

(8) "Telecommunications carrier" means:
(a) A telecommunications utility as defined in ORS 759.005; or
(b) A cooperative corporation organized under ORS chapter 62 that provides telecommunications services.

(9) "Telecommunications service" has the meaning given that term in ORS 759.005.

(10) "Wire communication" means any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable or other like connection between the point of origin and the point of reception, whether furnished or operated by a public utility or privately owned or leased.

SECTION 142. ORS 133.721, as amended by section 70, chapter 644, Oregon Laws 2011, section 11, chapter 54, Oregon Laws 2012, and section 13, chapter 180, Oregon Laws 2013, is amended to read:

133.721. As used in ORS 41.910 and 133.721 to 133.739, unless the context requires otherwise:

(1) "Aggrieved person" means a person who was a party to any wire, electronic or oral communication intercepted under ORS 133.724 or 133.726 or a person against whom the interception was directed and who alleges that the interception was unlawful.

(2) "Contents," when used with respect to any wire, electronic or oral communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport or meaning of that communication.

(3) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a radio, electromagnetic, photoelectronic or photo-optical system, or transmitted in part by wire, but does not include:

(a) Any oral communication or any communication that is completely by wire; or

(b) Any communication made through a tone-only paging device.

(4) "Electronic, mechanical or other device" means any device or apparatus that can be used to intercept a wire, electronic or oral communication other than:

(a) Any telephone or telegraph instrument, equipment or facility, or any component thereof that is furnished to the subscriber or user by a telecommunications carrier in the ordinary course of its business and that is being used by the subscriber or user in the ordinary course of its business or being used by a telecommunications carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of official duties; or

(b) A hearing aid or similar device being used to correct subnormal hearing to not better than normal.

(5) "Intercept" means the acquisition, by listening or recording, of the contents of any wire, electronic or oral communication through the use of any electronic, mechanical or other device.

(6) "Investigative or law enforcement officer" means:

(a) An officer or other person employed to investigate or enforce the law by:

(A) A county sheriff or municipal police department, or a police department established by a university under ORS 352.383 or 353.125;

(B) The Oregon State Police, the Department of Corrections, the Attorney General or a district attorney; or

(C) Law enforcement agencies of other states or the federal government; or

(b) A [*liquor enforcement inspector*] **regulatory specialist** exercising authority described in ORS 471.775 (2).

(7) "Oral communication" means:

(a) Any oral communication, other than a wire or electronic communication, uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation; or

(b) An utterance by a person who is participating in a wire or electronic communication, if the utterance is audible to another person who, at the time the wire or electronic communication occurs, is in the immediate presence of the person participating in the communication.

(8) "Telecommunications carrier" means:

(a) A telecommunications utility as defined in ORS 759.005; or
(b) A cooperative corporation organized under ORS chapter 62 that provides telecommunications services.

(9) "Telecommunications service" has the meaning given that term in ORS 759.005.

(10) "Wire communication" means any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable or other like connection between the point of origin and the point of reception, whether furnished or operated by a public utility or privately owned or leased.

SECTION 143. ORS 133.726 is amended to read:

133.726. (1) Notwithstanding ORS 133.724, under the circumstances described in this section, a law enforcement officer is authorized to intercept an oral communication to which the officer or a person under the direct supervision of the officer is a party, without obtaining an order for the interception of a wire, electronic or oral communication under ORS 133.724.

(2) For purposes of this section and ORS 133.736, a person is a party to an oral communication if the oral communication is made in the person's immediate presence and is audible to the person regardless of whether the communication is specifically directed to the person.

(3) An ex parte order for intercepting an oral communication in any county of this state under this section may be issued by any judge as defined in ORS 133.525 upon written application made upon oath or affirmation of the district attorney or a deputy district attorney authorized by the district attorney for the county in which the order is sought or upon the oath or affirmation of any peace officer as defined in ORS 133.005. The application shall include:

(a) The name of the applicant and the applicant's authority to make the application;

(b) A statement demonstrating that there is probable cause to believe that a person whose oral communication is to be intercepted is engaged in committing, has committed or is about to commit a particular felony, or a misdemeanor under ORS 167.007 or 167.008, and that intercepting the oral communication will yield evidence thereof; and

(c) The identity of the person, if known, suspected of committing the crime and whose oral communication is to be intercepted.

(4) The judge may require the applicant to furnish further testimony or documentary evidence in support of the application.

(5) Upon examination of the application and evidence, the judge may enter an ex parte order, as requested or as modified, authorizing or approving the interception of an oral communication within the state if the judge determines on the basis of the facts submitted by the applicant that:

(a) There is probable cause to believe that a person is engaged in committing, has committed or is about to commit a particular felony, or a misdemeanor under ORS 167.007 or 167.008; and

(b) There is probable cause to believe that the oral communication to be obtained will contain evidence concerning that crime.

(6) An order authorizing or approving the interception of an oral communication under this section must specify:

(a) The identity of the person, if known, whose oral communication is to be intercepted;

(b) A statement identifying the particular crime to which the oral communication is expected to relate;

(c) The agency authorized under the order to intercept the oral communication;

(d) The name and office of the applicant and the signature and title of the issuing judge;

(e) A period of time after which the order shall expire; and

(f) A statement that the order authorizes only the interception of an oral communication to which a law enforcement officer or a person under the direct supervision of a law enforcement officer is a party.

(7) An order under ORS 133.724 or this section is not required when a law enforcement officer intercepts an oral communication to which the officer or a person under the direct supervision of the officer is a party if the oral communication is made by a person whom the officer has probable cause to believe has committed, is engaged in committing or is about to commit:

(a) A crime punishable as a felony under ORS 475.752, 475.806 to 475.894 or 475.906 or as a misdemeanor under ORS 167.007 or 167.008; or

(b) Any other crime punishable as a felony if the circumstances at the time the oral communication is intercepted are of such exigency that it would be unreasonable to obtain a court order under ORS 133.724 or this section.

(8) A law enforcement officer who intercepts an oral communication pursuant to this section may not intentionally fail to record and preserve the oral communication in its entirety. A law enforcement officer, or a person under the direct supervision of the officer, who is authorized under this section to intercept an oral communication is not required to exclude from the interception an oral communication made by a person for whom probable cause does not exist if the officer or the person under the officer's direct supervision is a party to the oral communication.

(9) A law enforcement officer may not divulge the contents of an oral communication intercepted under this section before a preliminary hearing or trial in which an oral communication is going to be introduced as evidence against a person except:

(a) To a superior officer or other official with whom the law enforcement officer is cooperating in the enforcement of the criminal laws of this state or the United States;

(b) To a magistrate;

(c) In a presentation to a federal or state grand jury; or

(d) In compliance with a court order.

(10) A law enforcement officer may intercept an oral communication under this section only when acting within the scope of the officer's employment and as a part of assigned duties.

(11) As used in this section, "law enforcement officer" means:

(a) An officer employed to enforce criminal laws by:

(A) The United States, this state or a municipal government within this state;

(B) A political subdivision, agency, department or bureau of the governments described in subparagraph (A) of this paragraph; or

(C) A police department established by a university under ORS 352.383 or 353.125;

(b) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011; or

(c) A [*liquor enforcement inspector*] **regulatory specialist** as defined in ORS 471.001.

(12) Violation of subsection (9) of this section is a Class A misdemeanor.

SECTION 144. ORS 133.726, as amended by section 71, chapter 644, Oregon Laws 2011, section 13, chapter 54, Oregon Laws 2012, and section 15, chapter 180, Oregon Laws 2013, is amended to read:

133.726. (1) Notwithstanding ORS 133.724, under the circumstances described in this section, a law enforcement officer is authorized to intercept an oral communication to which the officer or a person under the direct supervision of the officer is a party, without obtaining an order for the interception of a wire, electronic or oral communication under ORS 133.724.

(2) For purposes of this section and ORS 133.736, a person is a party to an oral communication if the oral communication is made in the person's immediate presence and is audible to the person regardless of whether the communication is specifically directed to the person.

(3) An ex parte order for intercepting an oral communication in any county of this state under this section may be issued by any judge as defined in ORS 133.525 upon written application made upon oath or affirmation of the district attorney or a deputy district attorney authorized by the district attorney for the county in which the order is sought or upon the oath or affirmation of any peace officer as defined in ORS 133.005. The application shall include:

(a) The name of the applicant and the applicant's authority to make the application;

(b) A statement demonstrating that there is probable cause to believe that a person whose oral communication is to be intercepted is engaged in committing, has committed or is about to commit a particular felony, or a misdemeanor under ORS 167.007 or 167.008, and that intercepting the oral communication will yield evidence thereof; and

(c) The identity of the person, if known, suspected of committing the crime and whose oral communication is to be intercepted.

(4) The judge may require the applicant to furnish further testimony or documentary evidence in support of the application.

(5) Upon examination of the application and evidence, the judge may enter an ex parte order, as requested or as modified, authorizing or approving the interception of an oral communication within the state if the judge determines on the basis of the facts submitted by the applicant that:

(a) There is probable cause to believe that a person is engaged in committing, has committed or is about to commit a particular felony, or a misdemeanor under ORS 167.007 or 167.008; and

(b) There is probable cause to believe that the oral communication to be obtained will contain evidence concerning that crime.

(6) An order authorizing or approving the interception of an oral communication under this section must specify:

(a) The identity of the person, if known, whose oral communication is to be intercepted;

(b) A statement identifying the particular crime to which the oral communication is expected to relate;

(c) The agency authorized under the order to intercept the oral communication;

(d) The name and office of the applicant and the signature and title of the issuing judge;

(e) A period of time after which the order shall expire; and

(f) A statement that the order authorizes only the interception of an oral communication to which a law enforcement officer or a person under the direct supervision of a law enforcement officer is a party.

(7) An order under ORS 133.724 or this section is not required when a law enforcement officer intercepts an oral communication to which the officer or a person under the direct supervision of the officer is a party if the oral communication is made by a person whom the officer has probable cause to believe has committed, is engaged in committing or is about to commit:

(a) A crime punishable as a felony under ORS 475.752, 475.806 to 475.894 or 475.906 or as a misdemeanor under ORS 167.007 or 167.008; or

(b) Any other crime punishable as a felony if the circumstances at the time the oral communication is intercepted are of such exigency that it would be unreasonable to obtain a court order under ORS 133.724 or this section.

(8) A law enforcement officer who intercepts an oral communication pursuant to this section may not intentionally fail to record and preserve the oral communication in its entirety. A law enforcement officer, or a person under the direct supervision of the officer, who is authorized under this section to intercept an oral communication is not required to exclude from the interception an oral communication made by a person for whom probable cause does not exist if the officer or the person under the officer's direct supervision is a party to the oral communication.

(9) A law enforcement officer may not divulge the contents of an oral communication intercepted under this section before a preliminary hearing or trial in which an oral communication is going to be introduced as evidence against a person except:

(a) To a superior officer or other official with whom the law enforcement officer is cooperating in the enforcement of the criminal laws of this state or the United States;

(b) To a magistrate;

(c) In a presentation to a federal or state grand jury; or

(d) In compliance with a court order.

(10) A law enforcement officer may intercept an oral communication under this section only when acting within the scope of the officer's employment and as a part of assigned duties.

(11) As used in this section, "law enforcement officer" means:

(a) An officer employed to enforce criminal laws by:

(A) The United States, this state or a municipal government within this state;

(B) A political subdivision, agency, department or bureau of the governments described in subparagraph (A) of this paragraph; or

(C) A police department established by a university under ORS 352.383 or 353.125; or

(b) A [*liquor enforcement inspector*] **regulatory specialist** as defined in ORS 471.001.

(12) Violation of subsection (9) of this section is a Class A misdemeanor.

SECTION 145. ORS 153.005 is amended to read:

153.005. As used in this chapter:

(1) "Enforcement officer" means:

(a) A member of the Oregon State Police.

(b) A sheriff or deputy sheriff.

(c) A city marshal or a member of the police of a city, municipal or quasi-municipal corporation.

(d) A police officer commissioned by a university under ORS 352.383 or 353.125.

(e) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or any other state.

(f) An investigator of the Criminal Justice Division of the Department of Justice of the State of Oregon.

(g) A Port of Portland peace officer.

(h) A humane special agent as defined in ORS 181.435.

(i) A [*liquor enforcement inspector*] **regulatory specialist** exercising authority described in ORS 471.775 (2).

(j) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011.

(k) Any other person specifically authorized by law to issue citations for the commission of violations.

(2) "Traffic offense" has the meaning given that term in ORS 801.555.

(3) "Violation" means an offense described in ORS 153.008.

(4) "Violation proceeding" means a judicial proceeding initiated by issuance of a citation that charges a person with commission of a violation.

SECTION 146. ORS 153.005, as amended by section 45, chapter 644, Oregon Laws 2011, section 15, chapter 54, Oregon Laws 2012, section 8, chapter 67, Oregon Laws 2012, and section 22, chapter 180, Oregon Laws 2013, is amended to read:

153.005. As used in this chapter:

(1) "Enforcement officer" means:

(a) A member of the Oregon State Police.

(b) A sheriff or deputy sheriff.

(c) A city marshal or a member of the police of a city, municipal or quasi-municipal corporation.

(d) A police officer commissioned by a university under ORS 352.383 or 353.125.

(e) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or any other state.

(f) An investigator of the Criminal Justice Division of the Department of Justice of the State of Oregon.

(g) A Port of Portland peace officer.

(h) A humane special agent as defined in ORS 181.435.

(i) A [*liquor enforcement inspector*] **regulatory specialist** exercising authority described in ORS 471.775 (2).

(j) Any other person specifically authorized by law to issue citations for the commission of violations.

(2) "Traffic offense" has the meaning given that term in ORS 801.555.

(3) "Violation" means an offense described in ORS 153.008.

(4) "Violation proceeding" means a judicial proceeding initiated by issuance of a citation that charges a person with commission of a violation.

SECTION 147. ORS 161.015 is amended to read:

161.015. As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires otherwise:

(1) "Dangerous weapon" means any weapon, device, instrument, material or substance which under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or serious physical injury.

(2) "Deadly weapon" means any instrument, article or substance specifically designed for and presently capable of causing death or serious physical injury.

(3) "Deadly physical force" means physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury.

(4) "Peace officer" means:

(a) A member of the Oregon State Police;

(b) A sheriff, constable, marshal, municipal police officer or reserve officer as defined in ORS 133.005, or a police officer commissioned by a university under ORS 352.383 or 353.125;

(c) An investigator of the Criminal Justice Division of the Department of Justice or investigator of a district attorney's office;

(d) A humane special agent as defined in ORS 181.435;

(e) A [*liquor enforcement inspector*] **regulatory specialist** exercising authority described in ORS 471.775 (2);

(f) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011; and

(g) Any other person designated by law as a peace officer.

(5) "Person" means a human being and, where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality.

(6) "Physical force" includes, but is not limited to, the use of an electrical stun gun, tear gas or mace.

(7) "Physical injury" means impairment of physical condition or substantial pain.

(8) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

(9) "Possess" means to have physical possession or otherwise to exercise dominion or control over property.

(10) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

SECTION 148. ORS 161.015, as amended by section 46, chapter 644, Oregon Laws 2011, section 17, chapter 54, Oregon Laws 2012, section 10, chapter 67, Oregon Laws 2012, and section 24, chapter 180, Oregon Laws 2013, is amended to read:

161.015. As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires otherwise:

(1) "Dangerous weapon" means any weapon, device, instrument, material or substance which under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or serious physical injury.

(2) "Deadly weapon" means any instrument, article or substance specifically designed for and presently capable of causing death or serious physical injury.

(3) "Deadly physical force" means physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury.

(4) "Peace officer" means:

(a) A member of the Oregon State Police;

(b) A sheriff, constable, marshal, municipal police officer or reserve officer as defined in ORS 133.005, or a police officer commissioned by a university under ORS 352.383 or 353.125;

(c) An investigator of the Criminal Justice Division of the Department of Justice or investigator of a district attorney's office;

(d) A humane special agent as defined in ORS 181.435;
(e) A [*liquor enforcement inspector*] **regulatory specialist** exercising authority described in ORS 471.775 (2); and

(f) Any other person designated by law as a peace officer.

(5) "Person" means a human being and, where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality.

(6) "Physical force" includes, but is not limited to, the use of an electrical stun gun, tear gas or mace.

(7) "Physical injury" means impairment of physical condition or substantial pain.

(8) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

(9) "Possess" means to have physical possession or otherwise to exercise dominion or control over property.

(10) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation.

SECTION 149. ORS 163.095 is amended to read:

163.095. As used in ORS 163.105 and this section, "aggravated murder" means murder as defined in ORS 163.115 which is committed under, or accompanied by, any of the following circumstances:

(1)(a) The defendant committed the murder pursuant to an agreement that the defendant receive money or other thing of value for committing the murder.

(b) The defendant solicited another to commit the murder and paid or agreed to pay the person money or other thing of value for committing the murder.

(c) The defendant committed murder after having been convicted previously in any jurisdiction of any homicide, the elements of which constitute the crime of murder as defined in ORS 163.115 or manslaughter in the first degree as defined in ORS 163.118.

(d) There was more than one murder victim in the same criminal episode as defined in ORS 131.505.

(e) The homicide occurred in the course of or as a result of intentional maiming or torture of the victim.

(f) The victim of the intentional homicide was a person under the age of 14 years.

(2)(a) The victim was one of the following and the murder was related to the performance of the victim's official duties in the justice system:

(A) A police officer as defined in ORS 181.610;

(B) A correctional, parole and probation officer or other person charged with the duty of custody, control or supervision of convicted persons;

(C) A member of the Oregon State Police;

(D) A judicial officer as defined in ORS 1.210;

(E) A juror or witness in a criminal proceeding;

(F) An employee or officer of a court of justice;

(G) A member of the State Board of Parole and Post-Prison Supervision; or

(H) A [*liquor enforcement inspector*] **regulatory specialist**.

(b) The defendant was confined in a state, county or municipal penal or correctional facility or was otherwise in custody when the murder occurred.

(c) The defendant committed murder by means of an explosive as defined in ORS 164.055.

(d) Notwithstanding ORS 163.115 (1)(b), the defendant personally and intentionally committed the homicide under the circumstances set forth in ORS 163.115 (1)(b).

(e) The murder was committed in an effort to conceal the commission of a crime, or to conceal the identity of the perpetrator of a crime.

(f) The murder was committed after the defendant had escaped from a state, county or municipal penal or correctional facility and before the defendant had been returned to the custody of the facility.

SECTION 150. ORS 165.805 is amended to read:

165.805. (1) A person commits the crime of misrepresentation of age by a minor if:

(a) Being less than a certain, specified age, the person knowingly purports to be of any age other than the true age of the person with the intent of securing a right, benefit or privilege which by law is denied to persons under that certain, specified age; or

(b) Being unmarried, the person knowingly represents that the person is married with the intent of securing a right, benefit or privilege which by law is denied to unmarried persons.

(2) Misrepresentation of age by a minor is a Class C misdemeanor.

(3) In addition to and not in lieu of any other penalty established by law, a person who, using a driver permit or license or other identification issued by the Department of Transportation of this state or its equivalent in another state, commits the crime of misrepresentation of age by a minor in order to purchase or consume alcoholic liquor may be required to perform community service and the court shall order that the person's driving privileges and right to apply for driving privileges be suspended for a period not to exceed one year. If a court has issued an order suspending driving privileges under this section, the court, upon petition of the person, may withdraw the order at any time the court deems appropriate. The court notification to the department under this subsection may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.

(4) The prohibitions of this section do not apply to any person acting under the direction of the Oregon Liquor Control Commission or a [*liquor enforcement inspector*] **regulatory specialist** or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of alcoholic beverages to persons who are under a certain, specified age.

(5) The prohibitions of this section do not apply to a person under the age of 21 years who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of alcoholic beverages to persons who are under the age of 21 years.

SECTION 151. ORS 166.070 is amended to read:

166.070. (1) A person commits the crime of aggravated harassment if the person, knowing that the other person is a:

(a) Staff member, knowingly propels saliva, blood, urine, semen, feces or other dangerous substance at the staff member while the staff member is acting in the course of official duty or as a result of the staff member's official duties;

(b) Public safety officer, knowingly propels blood, urine, semen or feces at the public safety officer while the public safety officer is acting in the course of official duty or as a result of the public safety officer's official duties; or

(c) Public safety officer, intentionally propels saliva at the public safety officer, and the saliva comes into physical contact with the public safety officer, while the public safety officer is acting in the course of official duty or as a result of the public safety officer's official duties.

(2) Aggravated harassment is a Class C felony. When a person is convicted of violating subsection (1)(a) of this section, in addition to any other sentence it may impose, the court shall impose a term of incarceration in a state correctional facility.

(3) As used in this section:

(a) "Public safety officer" means an emergency medical services provider as defined in ORS 682.025, a [*liquor enforcement inspector*] **regulatory specialist** as defined in ORS 471.001 or a fire service professional, a parole and probation officer or a police officer as those terms are defined in ORS 181.610.

(b) "Staff member" has the meaning given that term in ORS 163.165.

SECTION 152. ORS 181.010, as amended by section 1, chapter 119, Oregon Laws 2014, is amended to read:

181.010. As used in ORS 181.010 to 181.560 and 181.715 to 181.730, unless the context requires otherwise:

- (1) "Criminal justice agency" means:
 - (a) The Governor;
 - (b) Courts of criminal jurisdiction;
 - (c) The Attorney General;
 - (d) District attorneys, city attorneys with criminal prosecutorial functions, attorney employees of the office of public defense services and nonprofit public defender organizations established under contract with the Public Defense Services Commission;
 - (e) Law enforcement agencies;
 - (f) The Department of Corrections;
 - (g) The Oregon Youth Authority;
 - (h) The State Board of Parole and Post-Prison Supervision;
 - (i) The Department of Public Safety Standards and Training;
 - (j) The enforcement division of the Oregon Liquor Control Commission **in performing duties related to investigating and enforcing the criminal laws of this state that the commission is charged to enforce;**
 - (k) Regional information systems that share programs to track, identify and remove cross-jurisdictional criminal and terrorist conspiracies; and
 - (l) Any other state or local agency with law enforcement authority.
- (2) "Criminal offender information" includes records and related data as to physical description and vital statistics, fingerprints received and compiled for purposes of identifying criminal offenders and alleged offenders, records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole and release.
- (3) "Department" means the Department of State Police established under ORS 181.020.
- (4) "Deputy superintendent" means the Deputy Superintendent of State Police appointed under ORS 181.220.
- (5) "Designated agency" means any state, county or municipal government agency where Oregon criminal offender information is required to implement a federal or state statute, executive order or administrative rule that expressly refers to criminal conduct and contains requirements or exclusions expressly based on such conduct or for agency employment purposes, licensing purposes or other demonstrated and legitimate needs when designated by order of the Governor.
- (6) "Disposition report" means a form or process prescribed or furnished by the department, containing a description of the ultimate action taken subsequent to an arrest.
- (7) "Law enforcement agency" means:
 - (a) County sheriffs, municipal police departments, police departments established by a university under ORS 352.383 or 353.125 and State Police;
 - (b) Other police officers of this state or another state, including humane special agents as defined in ORS 181.435;
 - (c) A tribal government as defined in section 1, chapter 644, Oregon Laws 2011, that employs authorized tribal police officers as defined in section 1, chapter 644, Oregon Laws 2011; and
 - (d) Law enforcement agencies of the federal government.
- (8) "State police" means the sworn members of the state police force appointed under ORS 181.250.
- (9) "Superintendent" means the Superintendent of State Police appointed under ORS 181.200.

SECTION 153. ORS 181.010, as amended by section 49, chapter 644, Oregon Laws 2011, section 19, chapter 54, Oregon Laws 2012, section 12, chapter 67, Oregon Laws 2012, section 30, chapter 180, Oregon Laws 2013, and section 2, chapter 119, Oregon Laws 2014, is amended to read:

181.010. As used in ORS 181.010 to 181.560 and 181.715 to 181.730, unless the context requires otherwise:

- (1) "Criminal justice agency" means:
- (a) The Governor;
 - (b) Courts of criminal jurisdiction;
 - (c) The Attorney General;
 - (d) District attorneys, city attorneys with criminal prosecutorial functions, attorney employees of the office of public defense services and nonprofit public defender organizations established under contract with the Public Defense Services Commission;
 - (e) Law enforcement agencies;
 - (f) The Department of Corrections;
 - (g) The Oregon Youth Authority;
 - (h) The State Board of Parole and Post-Prison Supervision;
 - (i) The Department of Public Safety Standards and Training;
 - (j) The enforcement division of the Oregon Liquor Control Commission **in performing duties related to investigating and enforcing the criminal laws of this state that the commission is charged to enforce;**
 - (k) Regional information systems that share programs to track, identify and remove cross-jurisdictional criminal and terrorist conspiracies; and
 - (L) Any other state or local agency with law enforcement authority.
- (2) "Criminal offender information" includes records and related data as to physical description and vital statistics, fingerprints received and compiled for purposes of identifying criminal offenders and alleged offenders, records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole and release.
- (3) "Department" means the Department of State Police established under ORS 181.020.
- (4) "Deputy superintendent" means the Deputy Superintendent of State Police appointed under ORS 181.220.
- (5) "Designated agency" means any state, county or municipal government agency where Oregon criminal offender information is required to implement a federal or state statute, executive order or administrative rule that expressly refers to criminal conduct and contains requirements or exclusions expressly based on such conduct or for agency employment purposes, licensing purposes or other demonstrated and legitimate needs when designated by order of the Governor.
- (6) "Disposition report" means a form or process prescribed or furnished by the department, containing a description of the ultimate action taken subsequent to an arrest.
- (7) "Law enforcement agency" means:
- (a) County sheriffs, municipal police departments, police departments established by a university under ORS 352.383 or 353.125 and State Police;
 - (b) Other police officers of this state or another state, including humane special agents as defined in ORS 181.435; and
 - (c) Law enforcement agencies of the federal government.
- (8) "State police" means the sworn members of the state police force appointed under ORS 181.250.
- (9) "Superintendent" means the Superintendent of State Police appointed under ORS 181.200.
- SECTION 154.** ORS 181.610 is amended to read:
- 181.610. As used in ORS 181.610 to 181.712, unless the context requires otherwise:
- (1) "Abuse" has the meaning given that term in ORS 107.705.
 - (2) "Board" means the Board on Public Safety Standards and Training appointed pursuant to ORS 181.620.
 - (3) "Certified reserve officer" means a reserve officer who has been designated by a local law enforcement unit, has received training necessary for certification and has met the minimum standards and training requirements established under ORS 181.640.
 - (4) "Commissioned" means being authorized to perform various acts or duties of a police officer or certified reserve officer and acting under the supervision and responsibility of a county sheriff or as otherwise provided by law.

(5) "Corrections officer" means an officer or member employed full-time by a law enforcement unit who:

(a) Is charged with and primarily performs the duty of custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined in a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; or

(b) Has been certified as a corrections officer described in paragraph (a) of this subsection and has supervisory or management authority for corrections officers described in paragraph (a) of this subsection.

(6) "Department" means the Department of Public Safety Standards and Training.

(7) "Director" means the Director of the Department of Public Safety Standards and Training.

(8) "Domestic violence" means abuse between family or household members.

(9) "Emergency medical dispatcher" means a person who has responsibility to process requests for medical assistance from the public or to dispatch medical care providers.

(10) "Family or household members" has the meaning given that term in ORS 107.705.

(11) "Fire service professional" means a paid or volunteer firefighter, an officer or a member of a public or private fire protection agency that is engaged primarily in fire investigation, fire prevention, fire safety, fire control or fire suppression or providing emergency medical services, light and heavy rescue services, search and rescue services or hazardous materials incident response. "Fire service professional" does not mean forest fire protection agency personnel.

(12) "Law enforcement unit" means:

(a) A police force or organization of the state, a city, university that has established a police department under ORS 352.383 or 353.125, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644, Oregon Laws 2011, that employs authorized tribal police officers as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Department of Corrections, the Oregon State Lottery Commission, the Security and Emergency Preparedness Office of the Judicial Department or common carrier railroad the primary duty of which, as prescribed by law, ordinance or directive, is one or more of the following:

(A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(B) The custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined to a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; or

(C) The control, supervision and reformation of adult offenders placed on parole or sentenced to probation and investigation of adult offenders on parole or probation or being considered for parole or probation;

(b) A police force or organization of a private entity with a population of more than 1,000 residents in an unincorporated area the employees of which are commissioned by a county sheriff;

(c) A district attorney's office;

(d) The Oregon Liquor Control Commission with regard to *[liquor enforcement inspectors]* **regulatory specialists**; or

(e) A humane investigation agency as defined in ORS 181.433.

[(13) "Liquor enforcement inspector" has the meaning given that term in ORS 471.001.]

[(14)] (13) "Parole and probation officer" means:

(a) An officer who is employed full-time by the Department of Corrections, a county or a court and who is charged with and performs the duty of:

(A) Community protection by controlling, investigating, supervising and providing or making referrals to reformatory services for adult parolees or probationers or offenders on post-prison supervision; or

(B) Investigating adult offenders on parole or probation or being considered for parole or probation; or

- (b) An officer who:
 - (A) Is certified and has been employed as a full-time parole and probation officer for more than one year;
 - (B) Is employed part-time by the Department of Corrections, a county or a court; and
 - (C) Is charged with and performs the duty of:
 - (i) Community protection by controlling, investigating, supervising and providing or making referrals to reformative services for adult parolees or probationers or offenders on post-prison supervision; or
 - (ii) Investigating adult offenders on parole or probation or being considered for parole or probation.

[(15)] (14) "Police officer" means:

- (a) An officer, member or employee of a law enforcement unit employed full-time as a peace officer who is:
 - (A) Commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383 or 353.125, the Governor or the Department of State Police; and
 - (B) Responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security;
- (b) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or another state;
- (c) A humane special agent commissioned under ORS 181.433;
- (d) A judicial marshal appointed under ORS 1.177 who is trained pursuant to ORS 181.647; or
- (e) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011.

[(16)] (15) "Public or private safety agency" means a unit of state or local government, a special purpose district or a private firm that provides, or has authority to provide, fire fighting, police, ambulance or emergency medical services.

[(17)] (16) "Public safety personnel" and "public safety officer" include corrections officers, youth correction officers, emergency medical dispatchers, parole and probation officers, police officers, certified reserve officers, telecommunicators, [*liquor enforcement inspectors*] **regulatory specialists** and fire service professionals.

(17) "Regulatory specialist" has the meaning given that term in ORS 471.001.

(18) "Reserve officer" means an officer or member of a law enforcement unit who is:

- (a) A volunteer or employed less than full-time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383 or 353.125, the Governor or the Department of State Police;
- (b) Armed with a firearm; and
- (c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security.

(19) "Telecommunicator" means a person employed as an emergency telephone worker as defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing and transmitting public safety information received through a 9-1-1 emergency reporting system as defined in ORS 403.105.

(20) "Youth correction officer" means an employee of the Oregon Youth Authority who is charged with and primarily performs the duty of custody, control or supervision of youth offenders confined in a youth correction facility.

SECTION 155. ORS 181.610, as amended by section 50, chapter 644, Oregon Laws 2011, section 23, chapter 54, Oregon Laws 2012, section 14, chapter 67, Oregon Laws 2012, section 5, chapter 88,

Oregon Laws 2012, section 18, chapter 1, Oregon Laws 2013, section 7, chapter 154, Oregon Laws 2013, and section 32, chapter 180, Oregon Laws 2013, is amended to read:

181.610. As used in ORS 181.610 to 181.712, unless the context requires otherwise:

(1) "Abuse" has the meaning given that term in ORS 107.705.

(2) "Board" means the Board on Public Safety Standards and Training appointed pursuant to ORS 181.620.

(3) "Certified reserve officer" means a reserve officer who has been designated by a local law enforcement unit, has received training necessary for certification and has met the minimum standards and training requirements established under ORS 181.640.

(4) "Commissioned" means being authorized to perform various acts or duties of a police officer or certified reserve officer and acting under the supervision and responsibility of a county sheriff or as otherwise provided by law.

(5) "Corrections officer" means an officer or member employed full-time by a law enforcement unit who:

(a) Is charged with and primarily performs the duty of custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined in a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; or

(b) Has been certified as a corrections officer described in paragraph (a) of this subsection and has supervisory or management authority for corrections officers described in paragraph (a) of this subsection.

(6) "Department" means the Department of Public Safety Standards and Training.

(7) "Director" means the Director of the Department of Public Safety Standards and Training.

(8) "Domestic violence" means abuse between family or household members.

(9) "Emergency medical dispatcher" means a person who has responsibility to process requests for medical assistance from the public or to dispatch medical care providers.

(10) "Family or household members" has the meaning given that term in ORS 107.705.

(11) "Fire service professional" means a paid or volunteer firefighter, an officer or a member of a public or private fire protection agency that is engaged primarily in fire investigation, fire prevention, fire safety, fire control or fire suppression or providing emergency medical services, light and heavy rescue services, search and rescue services or hazardous materials incident response. "Fire service professional" does not mean forest fire protection agency personnel.

(12) "Law enforcement unit" means:

(a) A police force or organization of the state, a city, university that has established a police department under ORS 352.383 or 353.125, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government, the Criminal Justice Division of the Department of Justice, the Department of Corrections, the Oregon State Lottery Commission, the Security and Emergency Preparedness Office of the Judicial Department or common carrier railroad the primary duty of which, as prescribed by law, ordinance or directive, is one or more of the following:

(A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(B) The custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined to a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; or

(C) The control, supervision and reformation of adult offenders placed on parole or sentenced to probation and investigation of adult offenders on parole or probation or being considered for parole or probation;

(b) A police force or organization of a private entity with a population of more than 1,000 residents in an unincorporated area the employees of which are commissioned by a county sheriff;

(c) A district attorney's office;

(d) The Oregon Liquor Control Commission with regard to *[liquor enforcement inspectors]* **regulatory specialists**; or

(e) A humane investigation agency as defined in ORS 181.433.

[(13) "*Liquor enforcement inspector*" has the meaning given that term in ORS 471.001.]

[(14)] (13) "Parole and probation officer" means:

(a) An officer who is employed full-time by the Department of Corrections, a county or a court and who is charged with and performs the duty of:

(A) Community protection by controlling, investigating, supervising and providing or making referrals to reformative services for adult parolees or probationers or offenders on post-prison supervision; or

(B) Investigating adult offenders on parole or probation or being considered for parole or probation; or

(b) An officer who:

(A) Is certified and has been employed as a full-time parole and probation officer for more than one year;

(B) Is employed part-time by the Department of Corrections, a county or a court; and

(C) Is charged with and performs the duty of:

(i) Community protection by controlling, investigating, supervising and providing or making referrals to reformative services for adult parolees or probationers or offenders on post-prison supervision; or

(ii) Investigating adult offenders on parole or probation or being considered for parole or probation.

[(15)] (14) "Police officer" means:

(a) An officer, member or employee of a law enforcement unit employed full-time as a peace officer who is:

(A) Commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383 or 353.125, the Governor or the Department of State Police; and

(B) Responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(b) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or another state;

(c) A humane special agent commissioned under ORS 181.433; or

(d) A judicial marshal appointed under ORS 1.177 who is trained pursuant to ORS 181.647.

[(16)] (15) "Public or private safety agency" means a unit of state or local government, a special purpose district or a private firm that provides, or has authority to provide, fire fighting, police, ambulance or emergency medical services.

[(17)] (16) "Public safety personnel" and "public safety officer" include corrections officers, youth correction officers, emergency medical dispatchers, parole and probation officers, police officers, certified reserve officers, telecommunicators, [*liquor enforcement inspectors*] **regulatory specialists** and fire service professionals.

(17) "**Regulatory specialist**" has the meaning given that term in ORS 471.001.

(18) "Reserve officer" means an officer or member of a law enforcement unit who is:

(a) A volunteer or employed less than full-time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383 or 353.125, the Governor or the Department of State Police;

(b) Armed with a firearm; and

(c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security.

(19) "Telecommunicator" means a person employed as an emergency telephone worker as defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing and transmitting public safety information received through a 9-1-1 emergency reporting system as defined in ORS 403.105.

(20) "Youth correction officer" means an employee of the Oregon Youth Authority who is charged with and primarily performs the duty of custody, control or supervision of youth offenders confined in a youth correction facility.

SECTION 156. ORS 181.645 is amended to read:

181.645. A law enforcement unit in this state may not employ as a police officer, corrections officer, parole and probation officer or *[liquor enforcement inspector]* **regulatory specialist**, or utilize as a certified reserve officer, any person who has not yet attained the age of 21 years.

SECTION 157. ORS 181.646 is amended to read:

181.646. (1) Except for a person who has requested and obtained an extension from the Department of Public Safety Standards and Training under subsection (2) of this section, subject to subsection (3) of this section the Oregon Liquor Control Commission may not employ a person as a *[liquor enforcement inspector]* **regulatory specialist** for more than 18 months unless the person is a citizen of the United States who has been certified under ORS 181.640 as being qualified as a *[liquor enforcement inspector]* **regulatory specialist** and the certification has not:

(a) Lapsed; or

(b) Been revoked under ORS 181.661, 181.662 and 181.664 (1) and not reissued under ORS 181.661 (2).

(2) The department, upon the facts contained in an affidavit accompanying the request for extension, may find good cause for failure to obtain certification within the time period described in subsection (1) of this section. If the department finds that there is good cause for the failure, the department may extend for up to one year the period that a person may serve as a *[liquor enforcement inspector]* **regulatory specialist** without certification. The grant or denial of an extension is within the sole discretion of the department.

(3) The citizenship requirement in subsection (1) of this section does not apply to a person employed as a *[liquor enforcement inspector]* **regulatory specialist** on March 16, 2012, who continues to serve as a *[liquor enforcement inspector]* **regulatory specialist** without a lapse under subsection (4) of this section.

(4) The certification of a *[liquor enforcement inspector]* **regulatory specialist** shall lapse after three or more consecutive months of not being employed as a *[liquor enforcement inspector]* **regulatory specialist** unless the *[liquor enforcement inspector]* **regulatory specialist** is on leave from the commission. Upon reemployment as a *[liquor enforcement inspector]* **regulatory specialist**, the person whose certification has lapsed may apply to be certified under ORS 181.610 to 181.712.

(5) The commission shall pay the costs of training required for a *[liquor enforcement inspector]* **regulatory specialist** to be certified by the department.

SECTION 158. Section 32, chapter 54, Oregon Laws 2012, is amended to read:

Sec. 32. (1) The Department of Public Safety Standards and Training shall make public safety personnel certification under ORS 181.640 as *[liquor enforcement inspectors]* **regulatory specialists** available for qualified applicants no later than July 1, 2015.

(2) Notwithstanding *[section 21 of this 2012 Act]* **ORS 181.646** and the amendments to ORS 181.610 by sections 22 and 23, **chapter 54, Oregon Laws 2012** *[of this 2012 Act]*, an inspector or investigator employed by the Oregon Liquor Control Commission and not granted an extension under *[section 21 of this 2012 Act]* **ORS 181.646** to obtain certification may perform the duties of a *[liquor enforcement inspector]* **regulatory specialist** without certification under ORS 181.640 until January 1, 2017.

(3) An employee of the Oregon Liquor Control Commission who takes voluntary training for commission inspectors and investigators provided by the Department of Public Safety Standards and Training prior to the date that *[liquor enforcement inspector]* **regulatory specialist** training is available from the department is deemed to have met the minimum basic training requirements for

a [*liquor enforcement inspector*] **regulatory specialist** and is exempt from any minimum physical standards for [*liquor enforcement inspectors*] **regulatory specialists** developed under [*section 21 of this 2012 Act*] **ORS 181.646**.

SECTION 159. ORS 238.005, as amended by section 2, chapter 107, Oregon Laws 2014, is amended to read:

238.005. For purposes of this chapter:

(1) "Active member" means a member who is presently employed by a participating public employer in a qualifying position and who has completed the six-month period of service required by ORS 238.015.

(2) "Annuity" means payments for life derived from contributions made by a member as provided in this chapter.

(3) "Board" means the Public Employees Retirement Board.

(4) "Calendar year" means 12 calendar months commencing on January 1 and ending on December 31 following.

(5) "Continuous service" means service not interrupted for more than five years, except that such continuous service shall be computed without regard to interruptions in the case of:

(a) An employee who had returned to the service of the employer as of January 1, 1945, and who remained in that employment until having established membership in the Public Employees Retirement System.

(b) An employee who was in the armed services on January 1, 1945, and returned to the service of the employer within one year of the date of being otherwise than dishonorably discharged and remained in that employment until having established membership in the Public Employees Retirement System.

(6) "Creditable service" means any period of time during which an active member is being paid a salary by a participating public employer and for which benefits under this chapter are funded by employer contributions and earnings on the fund. For purposes of computing years of "creditable service," full months and major fractions of a month shall be considered to be one-twelfth of a year and shall be added to all full years. "Creditable service" includes all retirement credit received by a member.

(7) "Earliest service retirement age" means the age attained by a member when the member could first make application for retirement under the provisions of ORS 238.280.

(8) "Employee" includes, in addition to employees, public officers, but does not include:

(a) Persons engaged as independent contractors.

(b) Seasonal, emergency or casual workers whose periods of employment with any public employer or public employers do not total 600 hours in any calendar year.

(c) Persons provided sheltered employment or made-work by a public employer in an employment or industries program maintained for the benefit of such persons.

(d) Persons employed and paid from federal funds received under a federal program intended primarily to alleviate unemployment. However, any such person shall be considered an "employee" if not otherwise excluded by paragraphs (a) to (c) of this subsection and the public employer elects to have the person so considered by an irrevocable written notice to the board.

(e) Persons who are employees of a railroad, as defined in ORS 824.020, and who, as such employees, are included in a retirement plan under federal railroad retirement statutes. This paragraph shall be deemed to have been in effect since the inception of the system.

(9) "Final average salary" means whichever of the following is greater:

(a) The average salary per calendar year paid by one or more participating public employers to an employee who is an active member of the system in three of the calendar years of membership before the effective date of retirement of the employee, in which three years the employee was paid the highest salary. The three calendar years in which the employee was paid the largest total salary may include calendar years in which the employee was employed for less than a full calendar year. If the number of calendar years of active membership before the effective date of retirement of the employee is three or fewer, the final average salary for the employee is the average salary per

calendar year paid by one or more participating public employers to the employee in all of those years, without regard to whether the employee was employed for the full calendar year.

(b) One-third of the total salary paid by a participating public employer to an employee who is an active member of the system in the last 36 calendar months of active membership before the effective date of retirement of the employee.

(10) "Firefighter" does not include a volunteer firefighter, but does include:

(a) The State Fire Marshal, the chief deputy fire marshal and deputy state fire marshals; and

(b) An employee of the State Forestry Department who is certified by the State Forester as a professional wildland firefighter and whose primary duties include the abatement of uncontrolled fires as described in ORS 477.064.

(11) "Fiscal year" means 12 calendar months commencing on July 1 and ending on June 30 following.

(12) "Fund" means the Public Employees Retirement Fund.

(13) "Inactive member" means a member who is not employed in a qualifying position, whose membership has not been terminated in the manner described by ORS 238.095 and who is not retired for service or disability.

(14) "Institution of higher education" means a public university listed in ORS 352.002, the Oregon Health and Science University and a community college, as defined in ORS 341.005.

(15) "Member" means a person who has established membership in the system and whose membership has not been terminated as described in ORS 238.095. "Member" includes active, inactive and retired members.

(16) "Member account" means the regular account and the variable account.

(17) "Normal retirement age" means:

(a) For a person who establishes membership in the system before January 1, 1996, as described in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or firefighter or 58 years of age if the employee retires at that age as other than a police officer or firefighter.

(b) For a person who establishes membership in the system on or after January 1, 1996, as described in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or firefighter or 60 years of age if the employee retires at that age as other than a police officer or firefighter.

(18) "Pension" means annual payments for life derived from contributions by one or more public employers.

(19) "Police officer" includes:

(a) Employees of institutions defined in ORS 421.005 as Department of Corrections institutions whose duties, as assigned by the Director of the Department of Corrections, include the custody of persons committed to the custody of or transferred to the Department of Corrections and employees of the Department of Corrections who were classified as police officers on or before July 27, 1989, whether or not such classification was authorized by law.

(b) Employees of the Department of State Police who are classified as police officers by the Superintendent of State Police.

(c) Employees of the Oregon Liquor Control Commission who are classified as [*liquor enforcement inspectors*] **regulatory specialists** by the administrator of the commission.

(d) Sheriffs and those deputy sheriffs or other employees of a sheriff whose duties, as classified by the sheriff, are the regular duties of police officers or corrections officers.

(e) Police chiefs and police personnel of a city who are classified as police officers by the council or other governing body of the city.

(f) Police officers who are commissioned by a university under ORS 352.383 or 353.125 and who are classified as police officers by the university.

(g) Parole and probation officers employed by the Department of Corrections, parole and probation officers who are transferred to county employment under ORS 423.549 and adult parole and probation officers, as defined in ORS 181.610, who are classified as police officers for the purposes of this chapter by the county governing body. If a county classifies adult parole and probation offi-

cers as police officers for the purposes of this chapter, and the employees so classified are represented by a labor organization, any proposal by the county to change that classification or to cease to classify adult parole and probation officers as police officers for the purposes of this chapter is a mandatory subject of bargaining.

(h) Police officers appointed under ORS 276.021 or 276.023.

(i) Employees of the Port of Portland who are classified as airport police by the Board of Commissioners of the Port of Portland.

(j) Employees of the State Department of Agriculture who are classified as livestock police officers by the Director of Agriculture.

(k) Employees of the Department of Public Safety Standards and Training who are classified by the department as other than secretarial or clerical personnel.

(L) Investigators of the Criminal Justice Division of the Department of Justice.

(m) Corrections officers as defined in ORS 181.610.

(n) Employees of the Oregon State Lottery Commission who are classified by the Director of the Oregon State Lottery as enforcement agents pursuant to ORS 461.110.

(o) The Director of the Department of Corrections.

(p) An employee who for seven consecutive years has been classified as a police officer as defined by this section, and who is employed or transferred by the Department of Corrections to fill a position designated by the Director of the Department of Corrections as being eligible for police officer status.

(q) An employee of the Department of Corrections classified as a police officer on or prior to July 27, 1989, whether or not that classification was authorized by law, as long as the employee remains in the position held on July 27, 1989. The initial classification of an employee under a system implemented pursuant to ORS 240.190 does not affect police officer status.

(r) Employees of a school district who are appointed and duly sworn members of a law enforcement agency of the district as provided in ORS 332.531 or otherwise employed full-time as police officers commissioned by the district.

(s) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050, 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who have supervisory, control or teaching responsibilities over juveniles committed to the custody of the Department of Corrections or the Oregon Youth Authority.

(t) Employees at youth correction facilities as defined in ORS 420.005 whose primary job description involves the custody, control, treatment, investigation or supervision of juveniles placed in such facilities.

(u) Employees of the Oregon Youth Authority who are classified as juvenile parole and probation officers.

(20) "Prior service credit" means credit provided under ORS 238.442 or under ORS 238.225 (2) to (6) (1999 Edition).

(21) "Public employer" means the state, one of its agencies, any city, county, or municipal or public corporation, any political subdivision of the state or any instrumentality thereof, or an agency created by one or more such governmental organizations to provide governmental services. For purposes of this chapter, such agency created by one or more governmental organizations is a governmental instrumentality and a legal entity with power to enter into contracts, hold property and sue and be sued.

(22) "Qualifying position" means one or more jobs with one or more participating public employers in which an employee performs 600 or more hours of service in a calendar year, excluding any service in a job for which a participating public employer does not provide benefits under this chapter pursuant to an application made under ORS 238.035.

(23) "Regular account" means the account established for each active and inactive member under ORS 238.250.

(24) "Retired member" means a member who is retired for service or disability.

(25) "Retirement credit" means a period of time that is treated as creditable service for the purposes of this chapter.

(26)(a) "Salary" means the remuneration paid an employee in cash out of the funds of a public employer in return for services to the employer, plus the monetary value, as determined by the Public Employees Retirement Board, of whatever living quarters, board, lodging, fuel, laundry and other advantages the employer furnishes the employee in return for services.

(b) "Salary" includes but is not limited to:

(A) Payments of employee and employer money into a deferred compensation plan, which are deemed salary paid in each month of deferral;

(B) The amount of participation in a tax-sheltered or deferred annuity, which is deemed salary paid in each month of participation;

(C) Retroactive payments described in ORS 238.008; and

(D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS 652.190.

(c) "Salary" or "other advantages" does not include:

(A) Travel or any other expenses incidental to employer's business which is reimbursed by the employer;

(B) Payments for insurance coverage by an employer on behalf of employee or employee and dependents, for which the employee has no cash option;

(C) Payments made on account of an employee's death;

(D) Any lump sum payment for accumulated unused sick leave;

(E) Any accelerated payment of an employment contract for a future period or an advance against future wages;

(F) Any retirement incentive, retirement severance pay, retirement bonus or retirement gratuitous payment;

(G) Payments for periods of leave of absence after the date the employer and employee have agreed that no future services qualifying pursuant to ORS 238.015 (3) will be performed, except for sick leave and vacation;

(H) Payments for instructional services rendered to public universities listed in ORS 352.002 or the Oregon Health and Science University when such services are in excess of full-time employment subject to this chapter. A person employed under a contract for less than 12 months is subject to this subparagraph only for the months to which the contract pertains; or

(I) Payments made by an employer for insurance coverage provided to a domestic partner of an employee.

(27) "School year" means the period beginning July 1 and ending June 30 next following.

(28) "System" means the Public Employees Retirement System.

(29) "Variable account" means the account established for a member who participates in the Variable Annuity Account under ORS 238.260.

(30) "Vested" means being an active member of the system in each of five calendar years.

(31) "Volunteer firefighter" means a firefighter whose position normally requires less than 600 hours of service per year.

SECTION 160. ORS 471.001 is amended to read:

471.001. As used in this chapter and ORS chapter 473:

(1) "Alcoholic beverage" and "alcoholic liquor" mean any liquid or solid containing more than one-half of one percent alcohol by volume and capable of being consumed by a human being.

(2) "Commercial establishment" means a place of business:

(a) Where food is cooked and served;

(b) That has kitchen facilities adequate for the preparation and serving of meals;

(c) That has dining facilities adequate for the serving and consumption of meals; and

(d) That:

(A) If not a for-profit private club, serves meals to the general public; or

(B) If a for-profit private club, serves meals to the club's members and guests and complies with any minimum membership and food service requirements established by Oregon Liquor Control Commission rules.

(3) "Commission" means the Oregon Liquor Control Commission.

(4) "Distilled liquor" means any alcoholic beverage other than a wine, cider or malt beverage. "Distilled liquor" includes distilled spirits.

(5) "Licensee" means any person holding a license issued under this chapter.

[(6) "*Liquor enforcement inspector*" means a full-time employee of the commission who is authorized to act as an agent of the commission in conducting inspections or investigations, making arrests and seizures, aiding in prosecutions for offenses, issuing citations for violations and otherwise enforcing this chapter, ORS 474.005 to 474.095 and 474.115, commission rules and any other statutes the commission considers related to alcoholic liquor.]

[(7)(a)] (6)(a) "Malt beverage" means an alcoholic beverage obtained by the fermentation of grain that contains not more than 14 percent alcohol by volume.

(b) "Malt beverage" includes:

(A) Beer, ale, porter, stout and similar alcoholic beverages containing not more than 14 percent alcohol by volume;

(B) Malt beverages containing six percent or less alcohol by volume and that contain at least 51 percent alcohol by volume obtained by the fermentation of grain, as long as not more than 49 percent of the beverage's overall alcohol content is obtained from flavors and other added nonbeverage ingredients containing alcohol; and

(C) Malt beverages containing more than six percent alcohol by volume that derive not more than 1.5 percent of the beverage's overall alcohol content by volume from flavors and other added nonbeverage ingredients containing alcohol.

(c) "Malt beverage" does not include cider or an alcoholic beverage obtained primarily by fermentation of rice, such as sake.

[(8)] (7) "Manufacturer" means every person who produces, brews, ferments, manufactures or blends an alcoholic beverage within this state or who imports or causes to be imported into this state an alcoholic beverage for sale or distribution within the state.

[(9)] (8) "Permittee" means a person holding a permit issued under ORS 471.360 to 471.390.

[(10)] (9) "Premises" or "licensed premises" means a location licensed under this chapter and includes all enclosed 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 patrons are permitted to be present. "Premises" or "licensed premises" includes areas outside of a building that the commission has specifically designated as approved for alcoholic beverage service or consumption.

(10) "Regulatory specialist" means a full-time employee of the commission who is authorized to act as an agent of the commission in conducting inspections or investigations, making arrests and seizures, aiding in prosecutions for offenses, issuing citations for violations and otherwise enforcing this chapter, ORS 474.005 to 474.095 and 474.115, commission rules and any other statutes the commission considers related to regulating liquor or marijuana.

(11) "Wine" means any fermented vinous liquor or fruit juice, or other fermented beverage fit for beverage purposes that is not a malt beverage, containing more than one-half of one percent of alcohol by volume and not more than 21 percent of alcohol by volume. "Wine" includes fortified wine. "Wine" does not include cider.

SECTION 161. ORS 471.360 is amended to read:

471.360. (1) Except as otherwise provided in ORS 471.375:

(a) Any person employed by a licensee of the Oregon Liquor Control Commission must have a valid service permit issued by the commission if the person:

(A) Participates in any manner in the mixing, selling or service of alcoholic liquor for consumption on the premises where served or sold; or

(B) Participates in the dispensing of malt beverages, wines or cider sold in securely covered containers provided by the consumer.

(b) A licensee of the commission may not permit any person who lacks a service permit required of the person under paragraph (a) of this subsection:

(A) To mix, sell or serve any alcoholic liquor for consumption on licensed premises; or

(B) To dispense malt beverages, wines or cider sold in securely covered containers provided by the consumer.

(c) A permittee shall make the service permit available at any time while on duty for immediate inspection by any [*liquor enforcement inspector*] **regulatory specialist** or by any other peace officer.

(2) The commission may waive the requirement for a service permit for an employee of a licensee whose primary function is not the sale of alcoholic liquor or food, including but not limited to public passenger carriers, hospitals, or convalescent, nursing or retirement homes.

SECTION 162. ORS 471.375 is amended to read:

471.375. (1) Any person who has not had a permit refused or revoked or whose permit is not under suspension may mix, sell or serve alcoholic beverages as provided under subsection (4) of this section if the person prepares in duplicate an application for a service permit prior to mixing, selling or serving any alcoholic beverage for consumption on licensed premises and the application is indorsed as required under subsection (2) of this section. A copy of the indorsed application must be kept on the licensed premises by any licensee for whom the person mixes, sells or serves alcoholic beverages and must be made available for immediate inspection by any [*liquor enforcement inspector*] **regulatory specialist** or by any other peace officer until the applicant receives the service permit.

(2) An application for a service permit under subsection (1) of this section must be indorsed by one of the following persons:

(a) The licensee under whose license the applicant will mix, sell or serve alcoholic beverages. If a licensee indorses an application, the licensee must immediately transmit the application to the commission with the fee required by subsection (3) of this section.

(b) An officer or employee of a company that provides servers to licensees on a temporary basis. The commission must give a company written approval to indorse service permit applications before an application may be indorsed under this paragraph.

(c) An employee of the commission designated by the commission to accept and indorse applications under this section. The applicant must personally appear before the employee of the commission and provide identification as may be required by commission rule.

(d) An employee of an alcohol server education course provider that has been certified by the commission under ORS 471.542 (8). The employee must be specifically designated by the provider to indorse applications under this section.

(3) An applicant for a service permit must be 18 years of age or over. Application for a service permit shall be made on a form supplied by the commission. The applicant shall truly answer all questions, provide any further information required, and pay a fee not to exceed \$10. The commission shall either set the fee to cover only the administrative costs of the service permit program, or apply any excess to the Alcohol Education Program established under ORS 471.541.

(4) An applicant for a service permit whose application has been indorsed as provided under this section may:

(a) Participate in the mixing, selling or service of alcoholic beverages for consumption on the premises where served or sold; and

(b) Participate in the dispensing of malt beverages, wine or cider sold in securely covered containers provided by the consumer.

SECTION 163. ORS 471.675 is amended to read:

471.675. A person may not forcibly resist lawful arrest, or by physical contact recklessly interfere with an investigation of any infringement of the Liquor Control Act or with any lawful search or seizure being made by a peace officer or a [*liquor enforcement inspector*] **regulatory specialist**

if the person knows or should know that the investigation, search or seizure is being performed by a peace officer or [*liquor enforcement inspector*] **regulatory specialist**.

SECTION 164. ORS 471.775 is amended to read:

471.775. (1) The provisions of ORS 183.440 shall apply to subpoenas issued by each member of the Oregon Liquor Control Commission or any of its authorized agents.

(2) [*Liquor enforcement inspectors*] **Regulatory specialists** have authority as provided under this chapter, ORS chapter 153, ORS 133.005 to 133.400, 133.450, 133.525 to 133.703, 133.721 to 133.739, 161.235, 161.239 and 161.245 and chapter 743, Oregon Laws 1971, to conduct inspections or investigations, make arrests and seizures, aid in prosecutions for offenses, issue criminal citations and citations for violations and otherwise enforce this chapter, ORS 474.005 to 474.095 and 474.115, commission rules and any other laws of this state that the commission considers related to alcoholic liquor, including but not limited to laws regarding the manufacture, importation, transportation, possession, distribution, sale or consumption of alcoholic beverages, the manufacture or use of false identification or the entry of premises licensed to sell alcoholic liquor.

SECTION 165. ORS 659A.320 is amended to read:

659A.320. (1) Except as provided in subsection (2) of this section, it is an unlawful employment practice for an employer to obtain or use for employment purposes information contained in the credit history of an applicant for employment or an employee, or to refuse to hire, discharge, demote, suspend, retaliate or otherwise discriminate against an applicant or an employee with regard to promotion, compensation or the terms, conditions or privileges of employment based on information in the credit history of the applicant or employee.

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

- (a) Employers that are federally insured banks or credit unions;
- (b) Employers that are required by state or federal law to use individual credit history for employment purposes;
- (c) The application for employment or the employment of a public safety officer who will be or who is:
 - (A) A member of a law enforcement unit;
 - (B) Employed as a peace officer commissioned by a city, port, school district, mass transit district, county, university under ORS 352.383 or 353.125, Indian reservation, the Superintendent of State Police under ORS 181.433, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission or the Governor or employed as a [*liquor enforcement inspector*] **regulatory specialist** by the Oregon Liquor Control Commission; and
 - (C) Responsible for enforcing the criminal laws of this state or laws or ordinances related to airport security; or
 - (d) The obtainment or use by an employer of information in the credit history of an applicant or employee because the information is substantially job-related and the employer's reasons for the use of such information are disclosed to the employee or prospective employee in writing.

(3) An employee or an applicant for employment may file a complaint under ORS 659A.820 for violations of this section and may bring a civil action under ORS 659A.885 and recover the relief as provided by ORS 659A.885 (1) and (2).

(4) As used in this section, "credit history" means any written or other communication of any information by a consumer reporting agency that bears on a consumer's creditworthiness, credit standing or credit capacity.

SECTION 166. ORS 659A.885 is amended to read:

659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in subsection (2) of this section may file a civil action in circuit court. In any action under this subsection, the court may order injunctive relief and any other equitable relief that may be appropriate, including but not limited to reinstatement or the hiring of employees with or without back pay. A court may order back pay in an action under this subsection only for the two-year period immediately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-

year period immediately preceding the filing of the action. In any action under this subsection, the court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Except as provided in subsection (3) of this section:

(a) The judge shall determine the facts in an action under this subsection; and

(b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall review the judgment pursuant to the standard established by ORS 19.415 (3).

(2) An action may be brought under subsection (1) of this section alleging a violation of ORS 10.090, 10.092, 25.337, 25.424, 171.120, 408.230, 408.237 (2), 476.574, 652.355, 653.060, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306, 659A.309, 659A.315, 659A.318, 659A.320 or 659A.421 or **section 20b of this 2015 Act**.

(3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145, 659A.199, 659A.228, 659A.230, 659A.250 to 659A.262, 659A.290, 659A.318 or 659A.421:

(a) The court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or \$200, whichever is greater, and punitive damages;

(b) At the request of any party, the action shall be tried to a jury;

(c) Upon appeal of any judgment finding a violation, the appellate court shall review the judgment pursuant to the standard established by ORS 19.415 (1); and

(d) Any attorney fee agreement shall be subject to approval by the court.

(4) In any action under subsection (1) of this section alleging a violation of ORS 652.355 or 653.060, the court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or \$200, whichever is greater.

(5) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574, 659A.203 or 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or \$250, whichever is greater.

(6) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092, the court may award, in addition to the relief authorized under subsection (1) of this section, a civil penalty in the amount of \$720.

(7) Any individual against whom any distinction, discrimination or restriction on account of race, color, religion, sex, sexual orientation, national origin, marital status or age, if the individual is 18 years of age or older, has been made by any place of public accommodation, as defined in ORS 659A.400, by any employee or person acting on behalf of the place or by any person aiding or abetting the place or person in violation of ORS 659A.406 may bring an action against the operator or manager of the place, the employee or person acting on behalf of the place or the aider or abettor of the place or person. Notwithstanding subsection (1) of this section, in an action under this subsection:

(a) The court may award, in addition to the relief authorized under subsection (1) of this section, compensatory and punitive damages;

(b) The operator or manager of the place of public accommodation, the employee or person acting on behalf of the place, and any aider or abettor shall be jointly and severally liable for all damages awarded in the action;

(c) At the request of any party, the action shall be tried to a jury;

(d) The court shall award reasonable attorney fees to a prevailing plaintiff;

(e) The court may award reasonable attorney fees and expert witness fees incurred by a defendant who prevails only if the court determines that the plaintiff had no objectively reasonable basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court; and

(f) Upon any appeal of a judgment under this subsection, the appellate court shall review the judgment pursuant to the standard established by ORS 19.415 (1).

(8) When the commissioner or the Attorney General has reasonable cause to believe that a person or group of persons is engaged in a pattern or practice of resistance to the rights protected by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner or the Attorney General may file a civil action on behalf of the aggrieved persons in the same manner as a person or group of persons may file a civil action under this section. In a civil action filed under this subsection, the court may assess against the respondent, in addition to the relief authorized under subsections (1) and (3) of this section, a civil penalty:

- (a) In an amount not exceeding \$50,000 for a first violation; and
- (b) In an amount not exceeding \$100,000 for any subsequent violation.

(9) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to the commissioner if the commissioner prevails in the action. The court may award reasonable attorney fees and expert witness fees incurred by a defendant that prevails in the action if the court determines that the commissioner had no objectively reasonable basis for asserting the claim or for appealing an adverse decision of the trial court.

(10) In an action under subsection (1) or (8) of this section alleging a violation of ORS 659A.145 or 659A.421 or discrimination under federal housing law:

- (a) "Aggrieved person" includes a person who believes that the person:
 - (A) Has been injured by an unlawful practice or discriminatory housing practice; or
 - (B) Will be injured by an unlawful practice or discriminatory housing practice that is about to occur.

(b) An aggrieved person in regard to issues to be determined in an action may intervene as of right in the action. The Attorney General may intervene in the action if the Attorney General certifies that the case is of general public importance. The court may allow an intervenor prevailing party costs and reasonable attorney fees at trial and on appeal.

SECTION 167. ORS 802.250 is amended to read:

802.250. (1) An eligible public employee may request that any driver or vehicle record kept by the Department of Transportation that contains or is required to contain the eligible employee's residence address contain instead the address of the public agency employing the eligible employee. A request under this section shall:

- (a) Be in a form specified by the department that provides for verification of the eligible employee's employment.
- (b) Contain verification by the employing public agency of the eligible employee's employment with the public agency.

(2) Upon receipt of a request and verification under subsection (1) of this section, the department shall remove the eligible employee's residence address from its records, if necessary, and substitute therefor the address of the public agency employing the eligible employee. The department shall indicate on the records that the address shown is an employment address. While the request is in effect, the eligible employee may enter the address of the public agency employing the eligible employee on any driver or vehicle form issued by the department that requires an address.

(3) A public agency that verifies an eligible employee's employment under subsection (1) of this section shall notify the department within 30 days if the eligible employee ceases to be employed by the public agency. The eligible employee shall notify the department of a change of address as provided in ORS 803.220 or 807.560.

(4) If an eligible employee is killed in the line of duty, a person who is a household member of the eligible employee may request that any driver or vehicle record kept by the department that contains or is required to contain the household member's residence address continue to contain the address of the public agency that employed the eligible employee for up to four years after the date of the death of the eligible employee. On or before the date on which the four-year period ends, the

household member shall notify the department of a change of address as provided in ORS 803.220 or 807.560. A request under this subsection shall be in a form specified by the department.

(5) As used in this section, "eligible employee" means:

(a) A member of the State Board of Parole and Post-Prison Supervision.

(b) The Director of the Department of Corrections and an employee of an institution defined in ORS 421.005 as Department of Corrections institutions, whose duties, as assigned by the superintendent, include the custody of persons committed to the custody of or transferred to the institution.

(c) A parole and probation officer employed by the Department of Corrections and an employee of the Department of Corrections Release Center whose duties, as assigned by the Chief of the Release Center, include the custody of persons committed to the custody of or transferred to the Release Center.

(d) A police officer appointed under ORS 276.021 or 276.023.

(e) An employee of the State Department of Agriculture who is classified as a brand inspector by the Director of Agriculture.

(f) An investigator of the Criminal Justice Division of the Department of Justice.

(g) A corrections officer as defined in ORS 181.610.

(h) A federal officer. As used in this paragraph, "federal officer" means a special agent or law enforcement officer employed by:

(A) The Federal Bureau of Investigation;

(B) The United States Secret Service;

(C) The United States Citizenship and Immigration Services;

(D) The United States Marshals Service;

(E) The Drug Enforcement Administration;

(F) The United States Postal Service;

(G) The United States Customs and Border Protection;

(H) The United States General Services Administration;

(I) The United States Department of Agriculture;

(J) The Bureau of Alcohol, Tobacco, Firearms and Explosives;

(K) The Internal Revenue Service;

(L) The United States Department of the Interior; or

(M) Any federal agency if the person is empowered to effect an arrest with or without warrant for violations of the United States Code and is authorized to carry firearms in the performance of duty.

(i) An employee of the Department of Human Services or the Oregon Health Authority whose duties include personal contact with clients or patients of the department or the authority.

(j) Any judge of a court of this state.

(k) An employee of the Oregon Youth Authority whose duties include personal contact with persons committed to the legal or physical custody of the authority.

(L) A district attorney, as defined in ORS 131.005, or deputy district attorney.

(m) An employee who provides educational services to persons who are clients or patients of the Department of Human Services or the Oregon Health Authority, who are under the jurisdiction of the Psychiatric Security Review Board or who are under the custody or supervision of the Department of Corrections, the State Board of Parole and Post-Prison Supervision, a community corrections agency, the Oregon Youth Authority or a juvenile department. As used in this paragraph, "employee who provides educational services" means a person who provides instruction, or services related to the instruction, of a subject usually taught in an elementary school, a secondary school or a community college or who provides special education and related services in other than a school setting and who works for:

(A) An education service district or a community college district; or

(B) A state officer, board, commission, bureau, department or division in the executive branch of state government that provides educational services.

- (n) An employee of the Oregon Liquor Control Commission who is:
 - (A) A [*liquor enforcement inspector*] **regulatory specialist**; or
 - (B) A regulatory manager.
- (o) A police officer as defined in ORS 801.395.
- (p) An employee whose duties include personal contact with criminal offenders and who is employed by a law enforcement unit, as defined in ORS 181.610.

(Operative March 1, 2016)

SECTION 168. ORS 181.534 is amended to read:

181.534. (1) As used in this section:

(a) "Authorized agency" means state government as defined in ORS 174.111 and the Oregon State Bar. "Authorized agency" does not include:

(A) The Oregon State Lottery Commission or the Oregon State Lottery; or

(B) A criminal justice agency, as defined in ORS 181.010, that is authorized by federal law to receive fingerprint-based criminal records checks from the Federal Bureau of Investigation.

(b) "Subject individual" means a person from whom an authorized agency may require fingerprints pursuant to statute for the purpose of enabling the authorized agency to request a state or nationwide criminal records check.

(2) An authorized agency may request that the Department of State Police conduct a criminal records check on a subject individual for non-criminal justice purposes. If a nationwide criminal records check of a subject individual is necessary, the authorized agency may request that the Department of State Police conduct the check, including fingerprint identification, through the Federal Bureau of Investigation.

(3) The Department of State Police shall provide the results of a criminal records check conducted pursuant to subsection (2) of this section to the authorized agency requesting the check.

(4) The Federal Bureau of Investigation shall return or destroy the fingerprint cards used to conduct the criminal records check and may not keep any record of the fingerprints. If the federal bureau policy authorizing return or destruction of the fingerprint cards is changed, the Department of State Police shall cease to send the cards to the federal bureau but shall continue to process the information through other available resources.

(5) If the Federal Bureau of Investigation returns the fingerprint cards to the Department of State Police, the department shall destroy the fingerprint cards and shall retain no facsimiles or other material from which a fingerprint can be reproduced.

(6) If only a state criminal records check is conducted, the Department of State Police shall destroy the fingerprint cards after the criminal records check is completed and the results of the criminal records check provided to the authorized agency and shall retain no facsimiles or other material from which a fingerprint can be reproduced.

(7) An authorized agency may conduct criminal records checks on subject individuals through the Law Enforcement Data System maintained by the Department of State Police in accordance with rules adopted, and procedures established, by the Department of State Police.

(8) An authorized agency and the Department of State Police shall permit a subject individual for whom a fingerprint-based criminal records check was conducted to inspect the individual's own state and national criminal offender records and, if requested by the subject individual, provide the individual with a copy of the individual's own state and national criminal offender records.

(9) Each authorized agency, in consultation with the Department of State Police, shall adopt rules to implement this section and other statutes relating to criminal offender information obtained through fingerprint-based criminal records checks. The rules shall include but need not be limited to:

(a) Identifying applicable categories of subject individuals as specified by the Oregon Department of Administrative Services under ORS 181.547 who are subject to criminal records checks by the authorized agency.

(b) Identifying applicable information that may be required from a subject individual to permit a criminal records check as specified by the Oregon Department of Administrative Services under ORS 181.547.

(c) Specifying which programs or services are subject to this section.

(d) If the authorized agency uses criminal records checks for agency employment purposes:

(A) Determining when and under what conditions a subject individual may be hired on a preliminary basis pending a criminal records check; and

(B) Defining the conditions under which a subject individual may participate in training, orientation and work activities pending completion of a criminal records check.

(e) Establishing fees in an amount not to exceed the actual cost of acquiring and furnishing criminal offender information.

(10) The Department of State Police shall verify that an authorized agency has adopted the rules required by subsection (9) of this section.

(11)(a) Except as otherwise provided in ORS 181.612, 342.143, 342.223, 443.735 and ~~475.304~~ ~~475.300 to 475.346~~ and paragraph (b) of this subsection, an authorized agency, using the rules adopted by the authorized agency under subsection (9) of this section and the rules adopted by the Oregon Department of Administrative Services under ORS 181.547, shall determine whether a subject individual is fit to hold a position, provide services, be employed or be granted a license, certification, registration or permit, based on the criminal records check obtained pursuant to this section, on any false statements made by the individual regarding the criminal history of the individual and on any refusal to submit or consent to a criminal records check including fingerprint identification. If a subject individual is determined to be unfit, then the individual may not hold the position, provide services, be employed or be granted a license, certification, registration or permit.

(b) An individual prohibited from receiving public funds for employment under ORS 443.004 (3) is not entitled to a determination of fitness as a subject individual under paragraph (a) of this subsection.

(c)(A) Subject to subparagraph (B) of this paragraph, an authorized agency making a fitness determination of an individual under this subsection may request results of a previously made fitness determination from an authorized agency that has already made a fitness determination for the individual. An authorized agency that receives a request under this paragraph shall provide the requested information.

(B) An authorized agency may make a request under this paragraph only for individuals:

(i) Who are applying to hold a position, provide services, be employed or be granted a license, certification, registration or permit;

(ii) Who are in a category of individuals as specified by the Oregon Department of Administrative Services under ORS 181.547; and

(iii) For whom a fitness determination has already been made.

(12) Except as otherwise provided in ORS 181.612, in making the fitness determination under subsection (11) of this section, the authorized agency shall consider:

(a) The nature of the crime;

(b) The facts that support the conviction or pending indictment or that indicate the making of the false statement;

(c) The relevancy, if any, of the crime or the false statement to the specific requirements of the subject individual's present or proposed position, services, employment, license, certification or registration; and

(d) Intervening circumstances relevant to the responsibilities and circumstances of the position, services, employment, license, certification, registration or permit. Intervening circumstances include but are not limited to:

(A) The passage of time since the commission of the crime;

(B) The age of the subject individual at the time of the crime;

(C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another relevant crime;

(E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and

(F) A recommendation of an employer.

(13) An authorized agency and an employee of an authorized agency acting within the course and scope of employment are immune from any civil liability that might otherwise be incurred or imposed for determining, pursuant to subsection (11) of this section, that a subject individual is fit or not fit to hold a position, provide services, be employed or be granted a license, certification, registration or permit. An authorized agency and an employee of an authorized agency acting within the course and scope of employment who in good faith comply with this section are not liable for employment-related decisions based on determinations made under subsection (11) of this section. An authorized agency or an employee of an authorized agency acting within the course and scope of employment is not liable for defamation or invasion of privacy in connection with the lawful dissemination of information lawfully obtained under this section.

(14)(a) Each authorized agency shall establish by rule a contested case process by which a subject individual may appeal the determination that the individual is fit or not fit to hold a position, provide services, be employed or be granted a license, certification, registration or permit on the basis of information obtained as the result of a criminal records check conducted pursuant to this section. Challenges to 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 must be made through the Department of State Police, Federal Bureau of Investigation or reporting agency and not through the contested case process required by this paragraph.

(b) A subject individual who is employed by an authorized agency and who is determined not to be fit for a position on the basis of information obtained as the result of a criminal records check conducted pursuant to this section may appeal the determination through the contested case process adopted under this subsection or applicable personnel rules, policies and collective bargaining provisions. An individual's decision to appeal a determination through personnel rules, policies and collective bargaining provisions is an election of remedies as to the rights of the individual with respect to the fitness determination and is a waiver of the contested case process.

(c) An individual prohibited from receiving public funds for employment under ORS 443.004 (3) is not entitled to appeal a determination under paragraph (a) or (b) of this subsection.

(15) Criminal offender information is confidential. Authorized agencies and the Department of State Police shall adopt rules to restrict dissemination of information received under this section to persons with a demonstrated and legitimate need to know the information.

(16) If a subject individual refuses to consent to the criminal records check or refuses to be fingerprinted, the authorized agency shall deny the employment of the individual, or revoke or deny any applicable position, authority to provide services, license, certification, registration or permit.

(17) If an authorized agency requires a criminal records check of employees, prospective employees, contractors, vendors or volunteers or applicants for a license, certification, registration or permit, the application forms of the authorized agency must contain a notice that the person is subject to fingerprinting and a criminal records check.

SECTION 169. ORS 181.537 is amended to read:

181.537. (1) As used in this section:

(a) "Care" means the provision of care, treatment, education, training, instruction, supervision, placement services, recreation or support to children, the elderly or persons with disabilities.

(b) "Native American tribe" has the meaning given that term in ORS 181.538 (4).

(c) "Qualified entity" means a community mental health program, a community developmental disabilities program, a local health department, the government of a Native American tribe or an agency of a Native American tribe responsible for child welfare or an individual or business or organization, whether public, private, for-profit, nonprofit or voluntary, that provides care, including a business or organization that licenses, certifies or registers others to provide care.

(2) For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the Department of Human Services, the Oregon Health Authority and the Employment Department may require the fingerprints of a person:

(a) Who is employed by or is applying for employment with either department or the authority;
(b) Who provides or seeks to provide services to either department or the authority as a contractor, subcontractor, vendor or volunteer who:

(A) May have contact with recipients of care;

(B) Has access to personal information about employees of either department or the authority, recipients of care from either department or the authority or members of the public, including Social Security numbers, dates of birth, driver license numbers, medical information, personal financial information or criminal background information;

(C) Has access to information the disclosure of which is prohibited by state or federal laws, rules or regulations, or information that is defined as confidential under state or federal laws, rules or regulations;

(D) Has access to property held in trust or to private property in the temporary custody of the state;

(E) Has payroll or fiscal functions or responsibility for:

(i) Receiving, receipting or depositing money or negotiable instruments;

(ii) Billing, collections, setting up financial accounts or other financial transactions; or

(iii) Purchasing or selling property;

(F) Provides security, design or construction services for government buildings, grounds or facilities;

(G) Has access to critical infrastructure or secure facilities information; or

(H) Is providing information technology services and has control over or access to information technology systems;

(c) For the purposes of licensing, certifying, registering or otherwise regulating or administering programs, persons or qualified entities that provide care;

(d) For the purposes of employment decisions by or for qualified entities that are regulated or otherwise subject to oversight by the Department of Human Services or the Oregon Health Authority and that provide care;

(e) For the purposes of employment decisions made by a mass transit district or transportation district for qualified entities that, under contracts with the district or the Oregon Health Authority, employ persons to operate motor vehicles for the transportation of medical assistance program clients; or

(f) For the purposes of licensure, certification or registration of foster homes by the government of a Native American tribe or an agency of a Native American tribe responsible for child welfare.

(3) The Department of Human Services and the Oregon Health Authority may conduct criminal records checks on a person through the Law Enforcement Data System maintained by the Department of State Police, if deemed necessary by the Department of Human Services or the Oregon Health Authority to protect children, elderly persons, persons with disabilities or other vulnerable persons.

(4) The Department of Human Services and the Oregon Health Authority may furnish to qualified entities, in accordance with the rules of the Department of Human Services or the Oregon Health Authority and the rules of the Department of State Police, information received from the Law Enforcement Data System. However, any criminal offender records and information furnished to the Department of Human Services or the Oregon Health Authority by the Federal Bureau of Investigation through the Department of State Police may not be disseminated to qualified entities.

(5)(a) Except as otherwise provided in ORS 443.735 and [475.304] 475.300 to 475.346, a qualified entity, using rules adopted by the Department of Human Services or the Oregon Health Authority under ORS 181.534 (9) and rules adopted by the Oregon Department of Administrative Services under ORS 181.547, shall determine under this section whether a person is fit to hold a position, provide services, be employed or, if the qualified entity has authority to make such a determination,

be licensed, certified or registered, based on the criminal records check obtained pursuant to ORS 181.534, any false statements made by the person regarding the criminal history of the person and any refusal to submit or consent to a criminal records check including fingerprint identification. If a person is determined to be unfit, then that person may not hold the position, provide services or be employed, licensed, certified or registered.

(b) A person prohibited from receiving public funds for employment under ORS 443.004 (3) is not entitled to a determination of fitness under paragraph (a) of this subsection.

(6) In making the fitness determination under subsection (5) of this section, the qualified entity shall consider:

(a) The nature of the crime;

(b) The facts that support the conviction or pending indictment or indicate the making of the false statement;

(c) The relevancy, if any, of the crime or the false statement to the specific requirements of the person's present or proposed position, services, employment, license, certification or registration; and

(d) Intervening circumstances relevant to the responsibilities and circumstances of the position, services, employment, license, certification or registration. Intervening circumstances include but are not limited to the passage of time since the commission of the crime, the age of the person at the time of the crime, the likelihood of a repetition of offenses, the subsequent commission of another relevant crime and a recommendation of an employer.

(7) The Department of Human Services, the Oregon Health Authority and the Employment Department may make fitness determinations based on criminal offender records and information furnished by the Federal Bureau of Investigation through the Department of State Police only as described in ORS 181.534.

(8) A qualified entity and an employee of a qualified entity acting within the course and scope of employment are immune from any civil liability that might otherwise be incurred or imposed for determining pursuant to subsection (5) of this section that a person is fit or not fit to hold a position, provide services or be employed, licensed, certified or registered. A qualified entity, employee of a qualified entity acting within the course and scope of employment and an employer or employer's agent who in good faith comply with this section and the decision of the qualified entity or employee of the qualified entity acting within the course and scope of employment are not liable for the failure to hire a prospective employee or the decision to discharge an employee on the basis of the qualified entity's decision. An employee of the state acting within the course and scope of employment is not liable for defamation or invasion of privacy in connection with the lawful dissemination of information lawfully obtained under this section.

(9) The Department of Human Services and the Oregon Health Authority, subject to rules adopted by the Oregon Department of Administrative Services under ORS 181.547, shall develop systems that maintain information regarding criminal records checks in order to minimize the administrative burden imposed by this section and ORS 181.534. Records maintained under this subsection are confidential and may not be disseminated except for the purposes of this section and in accordance with the rules of the Department of Human Services, the Oregon Health Authority and the Department of State Police. Nothing in this subsection permits the Department of Human Services to retain fingerprint cards obtained pursuant to this section.

(10) In addition to the rules required by ORS 181.534, the Department of Human Services and the Oregon Health Authority, in consultation with the Department of State Police, shall adopt rules:

(a) Specifying which qualified entities are subject to this section;

(b) Specifying which qualified entities may request criminal offender information;

(c) Specifying which qualified entities are responsible for deciding, subject to rules adopted by the Oregon Department of Administrative Services under ORS 181.547, whether a subject individual is not fit for a position, service, license, certification, registration or employment; and

(d) Specifying when a qualified entity, in lieu of conducting a completely new criminal records check, may proceed to make a fitness determination under subsection (5) of this section using the

information maintained by the Department of Human Services and the Oregon Health Authority pursuant to subsection (9) of this section.

(11) If a person refuses to consent to the criminal records check or refuses to be fingerprinted, the qualified entity shall deny or terminate the employment of the person, or revoke or deny any applicable position, authority to provide services, employment, license, certification or registration.

(12) If the qualified entity requires a criminal records check of employees or other persons, the application forms of the qualified entity must contain a notice that employment is subject to fingerprinting and a criminal records check.

ANNUAL REPORT EFFECTIVE ON PASSAGE

SECTION 170. (1) As used in this section, “marijuana” and “marijuana item” have the meanings given those terms in section 5, chapter 1, Oregon Laws 2015.

(2) On or before February 1 of each odd-numbered year, the Oregon Liquor Control Commission shall report to the Legislative Assembly in the manner required by ORS 192.245, the approximate amount of marijuana produced by persons who hold a license under section 19, chapter 1, Oregon Laws 2015, and the approximate amount of marijuana items sold by persons who hold a license under section 22, chapter 1, Oregon Laws 2015, and whether the supply of marijuana in this state is commensurate with the demand for marijuana items in this state.

TEMPORARY PROVISIONS EFFECTIVE ON PASSAGE

SECTION 171. The Oregon Liquor Control Commission shall approve or deny applications submitted to the commission under section 18, chapter 1, Oregon Laws 2015, to produce, process or sell marijuana under sections 19, 20, 21 and 22, chapter 1, Oregon Laws 2015, as soon as practicable after January 4, 2016.

SECTION 172. On or before January 1, 2017, the Oregon Liquor Control Commission:

(1) Shall examine available research, and may conduct or commission new research, to investigate the influence of marijuana on the ability of a person to drive a vehicle and on the concentration of delta-9-tetrahydrocannabinol in a person’s blood, in each case taking into account all relevant factors; and

(2) In the manner provided by ORS 192.245, shall present the results of the research, including any recommendations for legislation, to the interim committees of the Legislative Assembly related to judiciary.

SECTION 173. (1) The Oregon Health Authority, in addition to the information required under ORS 475.304 for registering as a marijuana grow site or renewing a marijuana grow site registration, and in addition to information required under ORS 475.314 for registering as a medical marijuana dispensary or renewing a medical marijuana dispensary registration, shall require all applications for registering or renewing registration under ORS 475.304 and 475.314 to contain proof that any person whose name is included in the application has been a resident of this state for:

(a) Except as provided in paragraph (b) of this subsection, two or more years; or

(b) Subject to subsection (2) of this section, and notwithstanding any residency requirements under ORS 475.304 or 475.314, if the person first registered with the authority on or before January 1, 2015, one year.

(2) For purposes of subsection (1)(b) of this section, the authority may not require proof of residency for any person whose name is included in the application for renewing a marijuana grow site registration or renewing a medical marijuana dispensary registration until January 1, 2016.

SECTION 174. If the Oregon Health Authority refuses to reregister a medical marijuana dispensary before the effective date of this 2015 Act on the basis that the medical marijuana dispensary is located within 1,000 feet of a school as described in ORS 475.314 (3)(d), the authority shall reregister the medical marijuana dispensary on or after the effective date of this 2015 Act upon receiving a request, in a form and manner prescribed by the authority, to reregister the medical marijuana dispensary from the person who was previously registered as the person responsible for the medical marijuana dispensary.

REPEALS

SECTION 175. (1) Sections 26, 42, 55, 71, 81, 82, 83, 84, 85 and 86, chapter 1, Oregon Laws 2015, are repealed.

(2) Section 132 of this 2015 Act is repealed on December 31, 2016.

SECTION 175a. ORS 475.324 is repealed.

SECTION 175b. Section 173 of this 2015 Act is repealed on January 1, 2019.

CONFLICTS

SECTION 176. If Senate Bill 964 becomes law, sections 32, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 67 (amending section 5, chapter 1, Oregon Laws 2015), 69, 70, 71, 72, 73 and 74, chapter _____, Oregon Laws 2015 (Enrolled Senate Bill 964), are repealed.

SERIES PLACEMENT

SECTION 177. (1) Sections 3, 4, 10, 13, 17 to 23, 26, 29 to 32, 34, 34a, 113, 114 and 116 of this 2015 Act are added to and made a part of sections 3 to 70, chapter 1, Oregon Laws 2015.

(2) Sections 81a, 82a, 83, 85 to 85e, 86a to 87 and 88 to 88f of this 2015 Act are added to and made a part of ORS 475.300 to 475.346.

DATES

SECTION 178. (1) Sections 3, 4, 10, 13, 17 to 23, 26, 29 to 32, 34, 91 to 112, 114, and 116 of this 2015 Act and the amendments to statutes and session law by sections 1, 2, 5 to 9, 11, 12, 14 to 16, 24, 25, 27, 28, 33, 35 to 68, 115 and 137 to 167 of this 2015 Act become operative on January 1, 2016.

(2) Section 113 of this 2015 Act becomes operative on November 15, 2015.

(3) The Oregon Liquor Control Commission, Oregon Health Authority and State Department of Agriculture may take any action before the operative dates specified in subsections (1) and (2) of this section that is necessary to enable the commission, authority and departments to exercise all the duties, functions and powers conferred on the commission, authority and departments by sections 3, 4, 10, 13, 17 to 23, 26, 29 to 32, 34, 91 to 112, 114 and 116 of this 2015 Act and the amendments to statutes and session law by sections 1, 2, 5 to 9, 11, 12, 14 to 16, 24, 25, 27, 28, 33, 35 to 68, 115 and 137 to 167 of this 2015 Act.

SECTION 179. (1) Sections 81a, 82a, 83, 85 to 85e, 86b to 87 and 88 to 88f of this 2015 Act, the amendments to statutes and session law by sections 80 to 80b, 81, 82, 84, 86, 87a, 87b, 89 to 90i, 168 and 169 of this 2015 Act and the repeal of ORS 475.324 by section 175a of this 2015 Act become operative on March 1, 2016.

(2) The Oregon Health Authority, the Oregon Liquor Control Commission and the State Department of Agriculture may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority, commission and department to exercise, on and after the operative date specified in subsection (1) of this section,

all the duties, powers and functions conferred on the authority, commission and department by sections 81a, 82a, 83, 85 to 85e, 86b to 87 and 88 to 88f of this 2015 Act and the amendments to statutes and session law by sections 80 to 80b, 81, 82, 84, 86, 87a, 87b, 89 to 90i, 168 and 169 of this 2015 Act.

SECTION 180. The Oregon Health Authority shall adopt rules that the authority is charged with adopting under sections 91 to 112 of this 2015 Act on or before November 15, 2015.

CAPTIONS

SECTION 181. The unit captions used in this 2015 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2015 Act.

EMERGENCY CLAUSE

SECTION 182. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.

Passed by House June 24, 2015

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate June 30, 2015

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2015

Approved:

.....M.,....., 2015

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2015

.....
Jeanne P. Atkins, Secretary of State

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ATTACHMENT 4

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ATTACHMENT 4

78th OREGON LEGISLATIVE ASSEMBLY--2015 Regular Session

Enrolled House Bill 2041

Sponsored by Representatives SMITH, LININGER (Pre-session filed.)

CHAPTER

AN ACT

Relating to marijuana; creating new provisions; amending ORS 305.140, 305.895, 305.992 and 316.680 and sections 44 and 69, chapter 1, Oregon Laws 2015; repealing sections 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43 and 71, chapter 1, Oregon Laws 2015; and prescribing an effective date.

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

TAX

SECTION 1. As used in sections 1 to 13 of this 2015 Act:

(1) "Cannabinoid concentrate," "cannabinoid edible," "cannabinoid extract," "cannabinoid product," "consumer," "immature marijuana plant," "marijuana flowers," "marijuana items," "marijuana leaves" and "marijuana retailer" have the meanings given those terms in section 5, chapter 1, Oregon Laws 2015.

(2) "Retail sale" means any transfer, exchange, gift or barter of a marijuana item by any person to a consumer.

(3) "Retail sales price" means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

SECTION 2. (1) A tax is hereby imposed upon the retail sale of marijuana items in this state. The tax imposed by this section is a direct tax on the consumer, for which payment upon retail sale is required to achieve convenience and facility in the collection and administration of the tax. The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs.

(2) The tax imposed under this section shall be imposed at the rate of:

- (a) 17 percent of the retail sales price of marijuana leaves;
- (b) 17 percent of the retail sales price of marijuana flowers;
- (c) 17 percent of the retail sales price of immature marijuana plants;
- (d) 17 percent of the retail sales price of a cannabinoid edible;
- (e) 17 percent of the retail sales price of a cannabinoid concentrate;
- (f) 17 percent of the retail sales price of a cannabinoid extract;
- (g) 17 percent of the retail sales price of a cannabinoid product that is intended to be used by applying the cannabinoid product to the skin or hair; and

(h) 17 percent of the retail sales price of cannabinoid products other than those described in paragraph (g) of this subsection.

(3) If the tax imposed under this section does not equal an amount calculable to a whole cent, the tax shall be equal to the next higher whole cent.

(4) The amount of the tax shall be separately stated on an invoice, receipt or other similar document that the marijuana retailer provides to the consumer, or shall be otherwise disclosed to the consumer.

(5) A person may not knowingly sell, purchase, install, transfer or possess software programs or other electronic devices intended to hide or to remove records of retail sales of marijuana items or to falsify records of retail sales of marijuana items.

SECTION 3. (1) Except as otherwise provided in sections 1 to 13 of this 2015 Act, the tax imposed upon the consumer under section 2 of this 2015 Act shall be collected at the point of sale and remitted by each marijuana retailer that engages in the retail sale of marijuana items. The tax is considered a tax upon the marijuana retailer that is required to collect the tax, and the marijuana retailer is considered a taxpayer.

(2) The marijuana retailer shall submit a return to the Department of Revenue on or before the last day of January, April, July and October of each year for the previous calendar quarter.

(3) The marijuana retailer shall pay the tax to the department in the form and manner prescribed by the department, but not later than with each quarterly return, without regard to extensions under subsection (5) of this section.

(4) Marijuana retailers shall file the returns required under this section regardless of whether any tax is owed.

(5) The department for good cause may extend the time for making any return under this section. The extension may be granted at any time if a written request is filed with the department during or prior to the period for which the extension may be granted. The department may not grant an extension of more than 30 days.

(6) Interest shall be added at the rate established under ORS 305.220 for each month, or fraction of a month, from the time the return was originally required to be filed to the time of payment.

(7) Except as provided in subsections (8) and (9) of this section, the period prescribed for the department to allow or make a refund of any overpayment of tax paid under sections 1 to 13 of this 2015 Act shall be as provided in ORS 314.415.

(8)(a) The department shall first apply any overpayment of tax to any marijuana tax that is then owed.

(b) If after any offset against any delinquent amount the overpayment of tax remains greater than \$1,000, the entire refund shall be applied as a credit against the next subsequent calendar quarter as an estimated payment.

(9) The department may not make a refund of, or credit, any overpayment of tax under sections 1 to 13 of this 2015 Act that was credited to the account of a marijuana retailer under subsection (8)(b) of this section if the return for that tax period is not filed within three years after the due date of that return.

SECTION 4. (1) Every person who collects any amount under section 3 of this 2015 Act shall hold the same in trust for the State of Oregon and for the payment thereof to the Department of Revenue in the manner and at the time provided in section 3 of this 2015 Act.

(2) At any time a marijuana retailer fails to remit any amount collected, the department may enforce collection by the issuance of a distraint warrant for the collection of the delinquent amount and all penalties, interest and collection charges accrued thereon. The warrant shall be issued, recorded and proceeded upon in the same manner and shall have the same force and effect as is prescribed with respect to warrants for the collection of delinquent income taxes.

(3)(a) In the case of a marijuana retailer that is assessed pursuant to the provisions of ORS 305.265 (12) and 314.407 (1), the department may issue a notice of liability to any officer, employee or member of the marijuana retailer within three years from the time of assessment. Within 30 days from the date the notice of liability is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and

interest, or advise the department in writing of objections to the liability and, if desired, request a conference. A conference shall be governed by the provisions of ORS 305.265 pertaining to a conference requested from a notice of deficiency.

(b) After a conference or, if no conference is requested, a determination of the issues considering the written objections, the department shall mail the officer, employee or member a conference letter affirming, canceling or adjusting the notice of liability. Within 90 days from the date the conference letter is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or appeal to the tax court in the manner provided for an appeal from a notice of assessment.

(c) If the department does not receive payment or written objection to the notice of liability within 30 days after the notice of liability was mailed, the notice of liability becomes final. In that event, the officer, employee or member may appeal the notice of liability to the tax court within 90 days after it became final in the manner provided for an appeal from a notice of assessment.

(4)(a) In the case of a failure to file a return on the due date, governed by the provisions of ORS 305.265 (10) and 314.400, the department, in addition to any action described in the provisions of ORS 305.265 (10) and 314.400, may send notices of determination and assessment to any officer, employee or member any time within three years after the assessment. The time of assessment against the officer, employee or member is 30 days after the date the notice of determination and assessment is mailed. Within 30 days from the date the notice of determination and assessment is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or advise the department in writing of objections to the assessment and, if desired, request a conference. A conference shall be governed by the provisions of ORS 305.265 pertaining to a conference requested from a notice of deficiency.

(b) After a conference or, if no conference is requested, a determination of the issues considering the written objections, the department shall mail the officer, employee or member a conference letter affirming, canceling or adjusting the notice of determination and assessment. Within 90 days from the date the conference letter is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or appeal in the manner provided for an appeal from a notice of assessment.

(c) If the department does not receive payment or written objection to the notice of determination and assessment within 30 days after the notice of determination and assessment was mailed, the notice of determination and assessment becomes final. In that event, the officer, employee or member may appeal the notice of determination and assessment to the tax court within 90 days after it became final in the manner provided for an appeal from a notice of assessment.

(5)(a) More than one officer or employee of a corporation may be held jointly and severally liable for payment of taxes.

(b) Notwithstanding the confidentiality provisions of section 10 of this 2015 Act, if more than one officer or employee of a corporation may be held jointly and severally liable for payment of taxes, the department may require any or all of the officers, members or employees who may be held liable to appear before the department for a joint determination of liability. The department shall notify each officer, member or employee of the time and place set for the determination of liability.

(c) Each person notified of a joint determination under this subsection shall appear and present such information as is necessary to establish that person's liability or nonliability for payment of taxes to the department. If a person who was notified fails to appear, the department shall make its determination on the basis of all the information and evidence presented. The department's determination is binding on all persons notified and required to appear under this subsection.

(d)(A) If an appeal is taken to the Oregon Tax Court pursuant to section 10 of this 2015 Act by any person determined to be liable for unpaid taxes under this subsection, each person required to appear before the department under this subsection shall be impleaded by the plaintiff. The department may implead any officer, employee or member who may be held jointly and severally liable for the payment of taxes. Each person impleaded under this paragraph shall be made a party to the action before the tax court and shall make available to the tax court the information that was presented before the department, as well as other information that may be presented to the court.

(B) The court may determine that one or more persons impleaded under this paragraph are liable for unpaid taxes without regard to any earlier determination by the department that an impleaded person was not liable for unpaid taxes.

(C) If a person required to appear before the court under this subsection fails or refuses to appear or bring such information in part or in whole, or is outside the jurisdiction of the tax court, the court shall make its determination on the basis of all the evidence introduced. Notwithstanding section 10 of this 2015 Act, the evidence constitutes a public record and shall be available to the parties and the court. The determination of the tax court is binding on all persons made parties to the action under this subsection.

(e) This section may not be construed to preclude a determination by the department or the Oregon Tax Court that more than one officer, employee or member are jointly and severally liable for unpaid taxes.

SECTION 5. (1) A marijuana retailer shall keep receipts, invoices and other pertinent records related to retail sales of marijuana items in the form required by the Department of Revenue. Each record shall be preserved for five years from the time to which the record relates, or for as long as the marijuana retailer retains the marijuana items to which the record relates, whichever is later. During the retention period and at any time prior to the destruction of records, the department may give written notice to the marijuana retailer not to destroy records described in the notice without written permission of the department. Notwithstanding any other provision of law, the department shall preserve reports and returns filed with the department for at least five years.

(2) The department or its authorized representative, upon oral or written demand, may make examinations of the books, papers, records and equipment of persons making retail sales of marijuana items and any other investigations as the department deems necessary to carry out the provisions of sections 1 to 13 of this 2015 Act.

SECTION 6. (1) The Department of Revenue has authority, by order or subpoena to be served with the same force and effect and in the same manner as a subpoena is served in a civil action in the circuit court, or the Oregon Tax Court, to require the production at any time and place the department designates of any books, papers, accounts or other information necessary to carry out sections 1 to 13 of this 2015 Act. The department may require the attendance of any person having knowledge in the premises, and may take testimony and require proof material for the information, with power to administer oaths to the person.

(2) If a person fails to comply with a subpoena or order of the department or to produce or permit the examination or inspection of any books, papers, records and equipment pertinent to an investigation or inquiry under sections 1 to 13 of this 2015 Act, or to testify to any matter regarding which the person is lawfully interrogated, the department may apply to the Oregon Tax Court or to the circuit court of the county in which the person resides or where the person is for an order to the person to attend and testify, or otherwise to comply with the demand or request of the department. The department shall apply to the court by ex parte motion, upon which the court shall make an order requiring the person against whom the motion is directed to comply with the request or demand of the department within 10 days after the service of the order, or within the additional time granted by the court, or to justify the failure within that time. The order shall be served upon the person to whom it is directed in the manner required by this state for service of process, which

service is required to confer jurisdiction upon the court. Failure to obey any order issued by the court under this section is contempt of court. The remedy provided by this section is in addition to other remedies, civil or criminal, existing under the tax laws or other laws of this state.

SECTION 7. (1) Notwithstanding the confidentiality provisions of section 10 of this 2015 Act, the Department of Revenue may disclose information received under sections 1 to 13 and 19 of this 2015 Act to the Oregon Liquor Control Commission to carry out the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, and sections 1 to 13 of this 2015 Act.

(2) The commission may disclose information obtained pursuant to sections 3 to 70, chapter 1, Oregon Laws 2015, and sections 1 to 13 of this 2015 Act to the department for the purpose of carrying out the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, and sections 1 to 13 of this 2015 Act.

(3) Except as otherwise provided in sections 3 to 70, chapter 1, Oregon Laws 2015, and sections 1 to 13 of this 2015 Act, a person aggrieved by an act or determination of the department or its authorized agent under sections 1 to 13 and 19 of this 2015 Act may appeal, within 90 days after the act or determination, to the Oregon Tax Court in the manner provided in ORS 305.404 to 305.560. These appeal rights are the exclusive remedy available to determine the person's liability for the tax imposed under sections 1 to 13 of this 2015 Act.

SECTION 8. (1) The Department of Revenue shall administer and enforce sections 1 to 13 of this 2015 Act. The department is authorized to establish rules and procedures for the implementation and enforcement of sections 1 to 13 of this 2015 Act that are consistent with sections 1 to 13 of this 2015 Act and that the department considers necessary and appropriate to administer and enforce sections 1 to 13 of this 2015 Act.

(2) The Oregon Liquor Control Commission shall enter into an agreement with the department for the purpose of administering and enforcing those provisions of sections 1 to 13 of this 2015 Act, and rules or procedures established for the purpose of implementing and enforcing sections 1 to 13 of this 2015 Act, that the commission and the department determine are necessary for the effective and efficient administration, implementation and enforcement of sections 1 to 13 of this 2015 Act.

SECTION 9. (1)(a) When an amount represented by a marijuana retailer at retail to a consumer as constituting the tax imposed under sections 1 to 13 of this 2015 Act is computed upon an amount that is not taxable or is in excess of the taxable amount and is actually paid by the consumer to the marijuana retailer, the excess tax paid shall be returned by the marijuana retailer to the consumer upon written notification by the Department of Revenue or the consumer.

(b) The written notification must contain information necessary to determine the validity of the consumer's claim.

(2) If the marijuana retailer does not return the excess tax within 60 days after mailing of the written notification required under subsection (1) of this section, the consumer may appeal to the department for a refund of the amount of the excess tax, in the manner and within the time allowed under rules adopted by the department.

(3) If excess tax is returned to the consumer by the department, the department may issue a notice of deficiency for the excess tax to the marijuana retailer in the manner provided under ORS 305.265.

SECTION 10. Except as otherwise provided in sections 1 to 13 of this 2015 Act or where the context requires otherwise, the provisions of ORS chapters 305 and 314 as to the audit and examination of returns, periods of limitation, determination of and notices of deficiencies, assessments, collections, liens, delinquencies, claims for refund and refunds, conferences, appeals to the Oregon Tax Court, stays of collection pending appeal, confidentiality of returns and the penalties relative thereto, and the procedures relating thereto, apply to the determinations of taxes, penalties and interest under sections 1 to 13 of this 2015 Act.

SECTION 11. (1) All moneys received by the Department of Revenue under sections 1 to 13 and 21a of this 2015 Act shall be deposited in the State Treasury and credited to a suspense account established under ORS 293.445. The department may pay expenses for the administration and enforcement of sections 1 to 13 and 21a of this 2015 Act out of moneys received from the tax imposed under section 2 of this 2015 Act. Amounts necessary to pay administrative and enforcement expenses are continuously appropriated to the department from the suspense account.

(2) After the payment of administrative and enforcement expenses and refunds or credits arising from erroneous overpayments, the department shall credit the balance of the moneys received by the department under this section to the Oregon Marijuana Account established under section 44, chapter 1, Oregon Laws 2015.

NOTE: Section 12 was deleted by amendment. Subsequent sections were not renumbered.

SECTION 13. For the purpose of compensating marijuana retailers for expenses incurred in collecting the tax imposed under section 2 of this 2015 Act, each marijuana retailer is permitted to deduct and retain two percent of the amount of taxes that are collected by the marijuana retailer from all retail sales of marijuana items conducted by the marijuana retailer.

OTHER AMENDMENTS

SECTION 14. Section 44, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 44. (1) There is established the Oregon Marijuana Account, separate and distinct from the General Fund.

(2) The account shall consist of moneys transferred to the account under section 11 of this 2015 Act.

~~[(2)] (3) [At the end of each month, the Oregon Liquor Control Commission]~~ **Subject to subsection (4) of this section, the Department of Revenue** shall certify the amount of moneys available for distribution in the Oregon Marijuana Account and, ~~after withholding such moneys as it may deem necessary to carry out its obligations under sections 3 to 70 of this Act, shall within 35 days of the month for which a distribution is made]~~ distribute the moneys as follows:

(a) Forty percent ~~[shall]~~ **must** be transferred to the Common School Fund;

(b) Twenty percent ~~[shall]~~ **must** be transferred to the Mental Health Alcoholism and Drug Services Account established under ORS 430.380;

(c) Fifteen percent ~~[shall]~~ **must** be transferred to the State Police Account established under ORS 181.175;

(d) To assist local law enforcement in performing its duties under ~~[this Act, ten percent shall]~~ **sections 3 to 70, chapter 1, Oregon Laws 2015, 10 percent must** be transferred to the cities of ~~[the]~~ **this** state in the following shares:

(A) For all distributions made from the Oregon Marijuana Account before July 1, 2017, in such shares as the population of each city bears to the population of the cities of ~~[the]~~ **this** state, as determined by ~~[the State Board of Higher Education]~~ **Portland State University** last preceding such apportionment, under ORS 190.510 to 190.610; and

(B) For all distributions made from the Oregon Marijuana Account on or after July 1, 2017:

(i) Fifty percent of ~~[such ten]~~ **the 10 percent [shall] must** be transferred in such shares as the number of licenses issued by the commission under sections 19 to 21, **chapter 1, Oregon Laws 2015, [of this Act]** during the calendar year preceding the date of the distribution for premises located in each city bears to the number of such licenses issued by the commission during such calendar year for all premises in ~~[the]~~ **this** state; and

(ii) Fifty percent of ~~[such ten]~~ **the 10 percent [shall] must** be transferred in such shares as the number of licenses issued by the commission under section 22, **chapter 1, Oregon Laws 2015, [of this Act]** during the calendar year preceding the date of the distribution for premises located in each

city bears to the number of such licenses issued by the commission during such calendar year for all premises in *[the]* this state;

(e) To assist local law enforcement in performing its duties under *[this Act, ten percent shall]* **sections 3 to 70, chapter 1, Oregon Laws 2015, 10 percent must** be transferred to counties in the following shares:

(A) For all distributions made from the Oregon Marijuana Account before July 1, 2017, in such shares as their respective populations bear to the total population of *[the]* this state, as estimated from time to time by *[the State Board of Higher Education]* **Portland State University**; and

(B) For all distributions made from the Oregon Marijuana Account on or after July 1, 2017:

(i) Fifty percent of *[such ten]* **the 10 percent** *[shall]* **must** be transferred in such shares as the number of licenses issued by the commission under sections 19 to 21, **chapter 1, Oregon Laws 2015, [of this Act]** during the calendar year preceding the date of the distribution for premises located in each county bears to the number of such licenses issued by the commission during such calendar year for all premises in *[the]* this state; and

(ii) Fifty percent of *[such ten]* **the 10 percent** *[shall]* **must** be transferred in such shares as the number of licenses issued by the commission under section 22, **chapter 1, Oregon Laws 2015, [of this Act]** during the calendar year preceding the date of the distribution for premises located in each county bears to the number of such licenses issued by the commission during such calendar year for all premises in *[the]* this state; and

(f) Five percent *[shall]* **must** be transferred to the Oregon Health Authority to be used for the establishment, operation[,] and maintenance of alcohol and drug abuse prevention, early intervention and treatment services.

(4) **A city or county that adopts ordinances prohibiting the establishment of a premises for which a license is issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, or prohibiting the establishment of an entity for which registration is required under ORS 475.300 to 475.346, is not eligible to receive distributions under this section.**

[(3)] (5) It is the intent of *[this section]* **the Legislative Assembly** that the moneys distributed from the Oregon Marijuana Account to the *[distributees]* **persons listed** in subsection *[(2)]* (3) of this section are in addition to, **and not in lieu of,** any other *[available]* moneys available to such *[distributees and do not supplant moneys available from any other source]* **persons.**

SECTION 15. ORS 305.140 is amended to read:

305.140. (1) Any person having an interest in or lien upon any real property may request the Department of Revenue in writing to release such real property from a cloud on the title of or lien on such property existing, created or continued under any one or more of the following:

(a) A warrant provided for in ORS 314.430, 321.570 or 323.610 **or section 4 of this 2015 Act;**

or

(b) The provisions of ORS 311.673, 311.679, 311.689, 311.711 or 311.771.

(2) If, upon a request under subsection (1) of this section, the department finds that a sale of such real property would not result in satisfaction in whole or in part of the taxes due, it shall execute a release of such cloud or lien upon such property, and such release shall be conclusive evidence of the removal and extinguishment of such cloud or lien in respect of such real property.

(3) In addition to the release of cloud or lien provided for in subsection (1) of this section, the department may execute releases on part or all of any real property in the following cases, which releases shall be conclusive evidence of the removal and extinguishment of such cloud or lien:

(a) If the department finds that liability for the amount assessed, together with all interest thereon and penalties and costs in respect thereof, has been satisfied;

(b) If the department finds that the fair market value of that part of the property remaining subject to the cloud or lien is at least double the amount of the liability remaining unsatisfied in respect of such tax and the amount of all prior liens upon the property;

(c) If there is supplied to the department either an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or a bond, in such form and with such surety as the

department considers sufficient, conditioned upon the payment of the amount of the warrant, together with all interest in respect thereof, within 60 days after the issuance of the release; or

(d) If there is paid to the department in partial satisfaction of the amount of the warrant provided for in ORS 314.430, 321.570 or 323.610 or **section 4 of this 2015 Act** or the amount of any lien under ORS 311.673, 311.679, 311.689, 311.711 or 311.771, an amount not less than the value, as determined by the department, of the lien of the State of Oregon upon the part of the property so to be released. In determining such value the department shall give consideration to the fair market value of the part of the property so to be released and to such liens thereon as have priority to the lien of the State of Oregon.

SECTION 16. ORS 305.895 is amended to read:

305.895. (1) Except as provided in ORS 314.440 or other jeopardy assessment procedure, the Department of Revenue shall take no action against a taxpayer's or transferee's real or personal property before issuing a warrant for the collection of tax or an amount payable by a transferee under ORS 311.695 as provided in ORS 314.430, 320.080, 321.570, 323.390, 323.610 and 324.190 and **section 4 of this 2015 Act**.

(2) At least 30 days before issuing a warrant for collection of any tax collected by the department or any amount payable under ORS 311.695, the department shall send the taxpayer or transferee a written notice and demand for payment. The notice shall:

(a) Be sent by mail, addressed to the taxpayer or transferee at the taxpayer's or transferee's last-known address.

(b) Inform the taxpayer or transferee that, even if the taxpayer or transferee is compliant with an installment agreement between the taxpayer or transferee and the department and is in communication with the department, if the tax or any portion of the tax or the amount payable under ORS 311.695 is not paid within 30 days after the date of the notice and demand for payment, a warrant may be issued and recorded as provided in ORS 314.430, 320.080, 321.570, 323.390, 323.610 and 324.190 and **section 4 of this 2015 Act**.

(c) Describe in clear nontechnical terms the legal authority for the warrant.

(d) Contain the name, office mailing address and office telephone number of the person issuing the warrant and advise the taxpayer or transferee that questions or complaints concerning the warrant, other than liability for the underlying tax or amount payable under ORS 311.695, may be directed to that person.

(e) Include alternatives available to the taxpayer or transferee that would prevent issuance of the warrant.

(f) Inform the taxpayer or transferee of possible consequences to the taxpayer or transferee of noncompliance, and of issuance of a warrant, including garnishment of wages or bank accounts and seizure and sale of real or personal property.

SECTION 17. ORS 305.992 is amended to read:

305.992. (1) If any returns required to be filed under ORS chapter 118, 314, 316, 317, 318, 321 or 323 or **sections 1 to 13 of this 2015 Act** or under a local tax administered by the Department of Revenue under ORS 305.620 are not filed for three consecutive years by the due date (including extensions) of the return required for the third consecutive year, there shall be a penalty for each year of 100 percent of the tax liability determined after credits and prepayments for each such year.

(2) The penalty imposed under this section is in addition to any other penalty imposed by law. However, the total amount of penalties imposed for any taxable year under this section, ORS 305.265 (13), 314.400, 323.403 or 323.585 [*shall*] or **section 10 of this 2015 Act** may not exceed 100 percent of the tax liability.

SECTION 18. Section 19 of this 2015 Act is added to and made a part of ORS chapter 317.

SECTION 19. Section 280E of the Internal Revenue Code applies to all trafficking in controlled substances in Schedule I or Schedule II that is prohibited by federal law or the laws of this state, other than conduct authorized under sections 3 to 70, chapter 1, Oregon Laws 2015.

SECTION 20. ORS 316.680 is amended to read:

316.680. (1) There shall be subtracted from federal taxable income:

(a) The interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States. However, the amount subtracted under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph, and by any expenses incurred in the production of interest or dividend income described in this paragraph to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income.

(b) The amount of any federal income taxes accrued by the taxpayer during the taxable year as described in ORS 316.685, less the amount of any refunds of federal taxes previously accrued for which a tax benefit was received.

(c) Amounts allowable under sections 2621(a)(2) and 2622(b) of the Internal Revenue Code to the extent that the taxpayer does not elect under section 642(g) of the Internal Revenue Code to reduce federal taxable income by those amounts.

(d) Any supplemental payments made to JOBS Plus Program participants under ORS 411.892.

(e)(A) Federal pension income that is attributable to federal employment occurring before October 1, 1991. Federal pension income that is attributable to federal employment occurring before October 1, 1991, shall be determined by multiplying the total amount of federal pension income for the tax year by the ratio of the number of months of federal creditable service occurring before October 1, 1991, over the total number of months of federal creditable service.

(B) The subtraction allowed under this paragraph applies only to federal pension income received at a time when:

(i) Benefit increases provided under chapter 569, Oregon Laws 1995, are in effect; or

(ii) Public Employees Retirement System benefits received for service prior to October 1, 1991, are exempt from state income tax.

(C) As used in this paragraph:

(i) "Federal creditable service" means those periods of time for which a federal employee earned a federal pension.

(ii) "Federal pension" means any form of retirement allowance provided by the federal government, its agencies or its instrumentalities to retirees of the federal government or their beneficiaries.

(f) Any amount included in federal taxable income for the tax year that is attributable to the conversion of a regular individual retirement account into a Roth individual retirement account described in section 408A of the Internal Revenue Code, to the extent that:

(A) The amount was subject to the income tax of another state or the District of Columbia in a prior tax year; and

(B) The taxpayer was a resident of the other state or the District of Columbia for that prior tax year.

(g) Any amounts awarded to the taxpayer by the Public Safety Memorial Fund Board under ORS 243.954 to 243.974 to the extent that the taxpayer has not taken the amount as a deduction in determining the taxpayer's federal taxable income for the tax year.

(h) If included in taxable income for federal tax purposes, the amount withdrawn during the tax year in qualified withdrawals from a college savings network account established under ORS 348.841 to 348.873.

(i) Any federal deduction that the taxpayer would have been allowed for the production, processing or sale of marijuana items authorized under sections 3 to 70, chapter 1, Oregon Laws 2015, but for section 280E of the Internal Revenue Code.

(2) There shall be added to federal taxable income:

(a) Interest or dividends, exempt from federal income tax, on obligations or securities of any foreign state or of a political subdivision or authority of any foreign state. However, the amount added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the

obligations or securities described in this paragraph and by any expenses incurred in the production of interest or dividend income described in this paragraph.

(b) Interest or dividends on obligations of any authority, commission, instrumentality and territorial possession of the United States that by the laws of the United States are exempt from federal income tax but not from state income taxes. However, the amount added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph and by any expenses incurred in the production of interest or dividend income described in this paragraph.

(c) The amount of any federal estate taxes allocable to income in respect of a decedent not taxable by Oregon.

(d) The amount of any allowance for depletion in excess of the taxpayer's adjusted basis in the property depleted, deducted on the taxpayer's federal income tax return for the taxable year, pursuant to sections 613, 613A, 614, 616 and 617 of the Internal Revenue Code.

(e) For taxable years beginning on or after January 1, 1985, the dollar amount deducted under section 151 of the Internal Revenue Code for personal exemptions for the taxable year.

(f) The amount taken as a deduction on the taxpayer's federal return for unused qualified business credits under section 196 of the Internal Revenue Code.

(g) The amount of any increased benefits paid to a taxpayer under chapter 569, Oregon Laws 1995, under the provisions of chapter 796, Oregon Laws 1991, and under section 26, chapter 815, Oregon Laws 1991, that is not includable in the taxpayer's federal taxable income under the Internal Revenue Code.

(h) The amount of any long term care insurance premiums paid or incurred by the taxpayer during the tax year if:

(A) The amount is taken into account as a deduction on the taxpayer's federal return for the tax year; and

(B) The taxpayer claims the credit allowed under ORS 315.610 for the tax year.

(i) Any amount taken as a deduction under section 1341 of the Internal Revenue Code in computing federal taxable income for the tax year, if the taxpayer has claimed a credit for claim of right income repayment adjustment under ORS 315.068.

(j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS 348.841, from a college savings network account established under ORS 348.841 to 348.873, the amount of the withdrawal that is attributable to contributions that were subtracted from federal taxable income under ORS 316.699.

(3) Discount and gain or loss on retirement or disposition of obligations described under subsection (2)(a) of this section issued on or after January 1, 1985, shall be treated for purposes of this chapter in the same manner as under sections 1271 to 1283 and other pertinent sections of the Internal Revenue Code as if the obligations, although issued by a foreign state or a political subdivision of a foreign state, were not tax exempt under the Internal Revenue Code.

SECTION 21. ORS 316.680, as amended by section 74, chapter 1, Oregon Laws 2015, is amended to read:

316.680. (1) There shall be subtracted from federal taxable income:

(a) The interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States. However, the amount subtracted under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph, and by any expenses incurred in the production of interest or dividend income described in this paragraph to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income.

(b) The amount of any federal income taxes accrued by the taxpayer during the taxable year as described in ORS 316.685, less the amount of any refunds of federal taxes previously accrued for which a tax benefit was received.

(c) Amounts allowable under sections 2621(a)(2) and 2622(b) of the Internal Revenue Code to the extent that the taxpayer does not elect under section 642(g) of the Internal Revenue Code to reduce federal taxable income by those amounts.

(d) Any supplemental payments made to JOBS Plus Program participants under ORS 411.892.

(e)(A) Federal pension income that is attributable to federal employment occurring before October 1, 1991. Federal pension income that is attributable to federal employment occurring before October 1, 1991, shall be determined by multiplying the total amount of federal pension income for the tax year by the ratio of the number of months of federal creditable service occurring before October 1, 1991, over the total number of months of federal creditable service.

(B) The subtraction allowed under this paragraph applies only to federal pension income received at a time when:

(i) Benefit increases provided under chapter 569, Oregon Laws 1995, are in effect; or

(ii) Public Employees Retirement System benefits received for service prior to October 1, 1991, are exempt from state income tax.

(C) As used in this paragraph:

(i) "Federal creditable service" means those periods of time for which a federal employee earned a federal pension.

(ii) "Federal pension" means any form of retirement allowance provided by the federal government, its agencies or its instrumentalities to retirees of the federal government or their beneficiaries.

(f) Any amount included in federal taxable income for the tax year that is attributable to the conversion of a regular individual retirement account into a Roth individual retirement account described in section 408A of the Internal Revenue Code, to the extent that:

(A) The amount was subject to the income tax of another state or the District of Columbia in a prior tax year; and

(B) The taxpayer was a resident of the other state or the District of Columbia for that prior tax year.

(g) Any amounts awarded to the taxpayer by the Public Safety Memorial Fund Board under ORS 243.954 to 243.974 to the extent that the taxpayer has not taken the amount as a deduction in determining the taxpayer's federal taxable income for the tax year.

(h) If included in taxable income for federal tax purposes, the amount withdrawn during the tax year in qualified withdrawals from a college savings network account established under ORS 348.841 to 348.873.

[(i) For income tax years commencing on or after January 1, 2015, the amount of any deductions or credits that the taxpayer would have been allowed but for the provisions of section 280E of the Internal Revenue Code.]

(i) Any federal deduction that the taxpayer would have been allowed for the production, processing or sale of marijuana items authorized under sections 3 to 70, chapter 1, Oregon Laws 2015, but for section 280E of the Internal Revenue Code.

(2) There shall be added to federal taxable income:

(a) Interest or dividends, exempt from federal income tax, on obligations or securities of any foreign state or of a political subdivision or authority of any foreign state. However, the amount added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph and by any expenses incurred in the production of interest or dividend income described in this paragraph.

(b) Interest or dividends on obligations of any authority, commission, instrumentality and territorial possession of the United States that by the laws of the United States are exempt from federal income tax but not from state income taxes. However, the amount added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this paragraph and by any expenses incurred in the production of interest or dividend income described in this paragraph.

(c) The amount of any federal estate taxes allocable to income in respect of a decedent not taxable by Oregon.

(d) The amount of any allowance for depletion in excess of the taxpayer's adjusted basis in the property depleted, deducted on the taxpayer's federal income tax return for the taxable year, pursuant to sections 613, 613A, 614, 616 and 617 of the Internal Revenue Code.

(e) For taxable years beginning on or after January 1, 1985, the dollar amount deducted under section 151 of the Internal Revenue Code for personal exemptions for the taxable year.

(f) The amount taken as a deduction on the taxpayer's federal return for unused qualified business credits under section 196 of the Internal Revenue Code.

(g) The amount of any increased benefits paid to a taxpayer under chapter 569, Oregon Laws 1995, under the provisions of chapter 796, Oregon Laws 1991, and under section 26, chapter 815, Oregon Laws 1991, that is not includable in the taxpayer's federal taxable income under the Internal Revenue Code.

(h) The amount of any long term care insurance premiums paid or incurred by the taxpayer during the tax year if:

(A) The amount is taken into account as a deduction on the taxpayer's federal return for the tax year; and

(B) The taxpayer claims the credit allowed under ORS 315.610 for the tax year.

(i) Any amount taken as a deduction under section 1341 of the Internal Revenue Code in computing federal taxable income for the tax year, if the taxpayer has claimed a credit for claim of right income repayment adjustment under ORS 315.068.

(j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS 348.841, from a college savings network account established under ORS 348.841 to 348.873, the amount of the withdrawal that is attributable to contributions that were subtracted from federal taxable income under ORS 316.699.

(3) Discount and gain or loss on retirement or disposition of obligations described under subsection (2)(a) of this section issued on or after January 1, 1985, shall be treated for purposes of this chapter in the same manner as under sections 1271 to 1283 and other pertinent sections of the Internal Revenue Code as if the obligations, although issued by a foreign state or a political subdivision of a foreign state, were not tax exempt under the Internal Revenue Code.

EARLY START

SECTION 21a. (1) For purposes of this section:

(a) "Limited marijuana retail product" has the meaning given that term in section 2, chapter _____, Oregon Laws 2015 (Enrolled Senate Bill 460).

(b) "Medical marijuana dispensary" means an entity registered with the Oregon Health Authority under ORS 475.314.

(2) On and after January 4, 2016, if a medical marijuana dispensary elects to make sales as described in section 2, chapter _____, Oregon Laws 2015 (Enrolled Senate Bill 460), the medical marijuana dispensary must collect the tax imposed under section 2 of this 2015 Act in the same manner that a marijuana retailer that holds a license under section 22, chapter 1, Oregon Laws 2015, collects the tax imposed under section 2 of this 2015 Act, except that the tax imposed under this section shall be imposed at the rate of 25 percent of the retail sales price of the limited marijuana retail product.

(3) A medical marijuana dispensary that collects taxes as required by this section is subject to the provisions of sections 1 to 13 of this 2015 Act, except that the tax imposed under this section shall be imposed at the rate described in subsection (2) of this section.

MISCELLANEOUS

SECTION 22. Sections 1 to 13 of this 2015 Act and the amendments to ORS 305.140, 305.895 and 305.992 and section 44, chapter 1, Oregon Laws 2015, by sections 14 to 17 of this 2015 Act apply to retail sales of marijuana items occurring on or after January 1, 2016.

SECTION 23. (1) Section 19 of this 2015 Act and the amendments to ORS 316.680 by sections 20 and 21 of this 2015 Act apply to conduct occurring on or after January 1, 2016, and to tax years beginning on or after January 1, 2016.

(2) The repeal of section 71, chapter 1, Oregon Laws 2015, by section 24 of this 2015 Act applies to all tax years.

SECTION 24. (1) Sections 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43 and 71, chapter 1, Oregon Laws 2015, are repealed.

(2) If Senate Bill 460 becomes law, section 21a of this 2015 Act, is repealed on December 31, 2016.

SECTION 25. Section 69, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 69. (1) Except where other punishment is specifically provided for in sections 3 to 70, chapter 1, Oregon Laws 2015 [of this Act], violation of any provision of sections 3 to 70, chapter 1, Oregon Laws 2015, [of this Act] is a Class A misdemeanor.

[(2) A violation of subsection (1) of section 40 of this Act is a Class B misdemeanor.]

[(3)] (2) Subject to ORS 153.022, violation of any regulation promulgated under paragraph (e) of subsection (2) of section 7 of this Act is a Class C violation.

CAPTIONS

SECTION 26. The unit captions used in this 2015 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2015 Act.

EFFECTIVE DATE

SECTION 27. This 2015 Act takes effect on the 91st day after the date on which the 2015 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

Passed by House June 25, 2015

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate June 30, 2015

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2015

Approved:

.....M.,....., 2015

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2015

.....
Jeanne P. Atkins, Secretary of State

ATTACHMENT 5

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ATTACHMENT 5

78th OREGON LEGISLATIVE ASSEMBLY--2015 Regular Session

Enrolled Senate Bill 460

Sponsored by Senator PROZANSKI, Representative LININGER (Pre-session filed.)

CHAPTER

AN ACT

Relating to marijuana; and declaring an emergency.

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

SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS 475.300 to 475.346.

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

(a) "Limited marijuana retail product" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 4. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.

Passed by Senate June 30, 2015

.....
Lori L. Bocker, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House July 2, 2015

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2015

Approved:

.....M.,....., 2015

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2015

.....
Jeanne P. Atkins, Secretary of State

ATTACHMENT 6

Marijuana Zoning Analysis

According to a summary prepared by the League of Oregon Cities, recently passed state legislation (HB 3400) regulates seven marijuana related activities:

- Medical marijuana dispensaries (which the City has already adopted code provisions to address);
- Commercial marijuana retailers;
- Medical and commercial marijuana processors (preparing edibles, skin and hair products, concentrates and extracts);
- Medical and commercial marijuana producers (growers); and
- Commercial marijuana wholesalers.

To date, the City's regulations directly apply to medical marijuana dispensaries. Dispensaries were addressed by the adoption of Ordinance Number 2015-02 (Development Code) and Ordinance Number 2015-03 (City Code). These codes established locational and operational requirements for medical marijuana dispensaries. Combining city and state requirements, medical marijuana dispensaries can be located in the Community Commercial zone district located beyond 1000 feet from a public or private primary or secondary school and 1000 feet from another dispensary.

Current regulations in the Development Code (DC Section 10.8.1100) on medical marijuana dispensaries (besides location) include:

- Compliance with state requirements;
- Hours of closure to the public between 10 pm and 8 am;
- Entrances and off-street parking areas be well lit and not visually obscured from public view and rights-of-way;
- Facility located in a permanent building with no outdoor storage of merchandise, raw materials or other materials associated with the facility;
- Site or building exterior must comply with City design standards with security bars or grates prohibited unless integrated into the design;
- No drive-up use; and
- Provide secure disposal or render impotent marijuana remnants or by-products.

Operational requirements for dispensaries under the City code (Section 7.850 et. seq.) include:

- Compliance with state law;
- Obtaining a business license;
- Hours of closure between 10 pm and 8 am;
- All products and paraphernalia be enclosed in an opaque bag or container upon exiting the facility; and

- Provide secure disposal or render impotent marijuana remnants or by-products.

State law (HB 3400, Sections 33 and 89) expressly provides that local government may impose reasonable regulations on:

- The hours of operation of retail licensees and medical marijuana grow sites, processing sites, and dispensaries;
- The location of all four types of commercial licensees (retail, processing, wholesale and growing), as well as medical marijuana grow sites, processing sites, and dispensaries, except that a city may not impose more than a 1,000 foot buffer between retail licensees;
- The manner of operation of all four types of commercial licensees, as well as medical marijuana processors and dispensaries; and
- The public's access to the premises of all four types of commercial licenses, as well as medical marijuana grow sites, processing sites, and dispensaries.

It is staff's opinion that the above regulations comply with State law.

The Development Code also addresses other marijuana activities beyond medical marijuana dispensaries based on current provisions.

Commercial Marijuana Retailers: Commercial marijuana retailers current fit under the definition for General Retail sales as defined by Section 10.12.130 D.1.:

"Establishments which engage in consumer-oriented sales, leasing and rental of consumer, home and business goods."

"Marijuana retailer" is defined by state law as "a person who sells marijuana items to a consumer in this state." (Section 1(20) of HB 3400) Based on the provisions of state law and local zoning requirements, these uses can be located in Neighborhood and Community Commercial zone districts, and all Town Center zone districts that are located more than 1,000 feet from a public or private primary or secondary school. (Note: there is no distance requirement for separation between establishments selling marijuana for recreational use.)

Because of the presence of schools in the area, all of the current Town Center zoned area would not be eligible for a retail outlet. Under current provisions, if the Town Center districts were extended to Elm Street, retail outlets in a small area located outside the buffer areas near Elm Street would be allowed to sell marijuana. Existing provisions would not allow medical marijuana dispensaries to locate in the same area if it gets rezoned to Town Center from Community Commercial.

Retail Operators in Residential Zone Districts: There is a potential question about allowing commercial marijuana retail operations in residential zone districts. All residential zone districts with the exception of the Suburban Residential district allow neighborhood stores as a conditional use. Neighborhood stores are defined in the Development Code (DC Section 10.12.210 N2) as:

“A commercial structure of 2,000 square feet or less providing goods and services to a neighborhood area. Such store is intended to provide convenience items to reduce the need for longer trips, and is not intended to provide goods and services which would encourage trips from throughout the community.”

It is staff’s opinion that a marijuana commercial retail operation does not meet this definition. These uses are not intended to provide convenience items oriented to a neighborhood area. However, this is an interpretation which could be argued by an applicant.

Further, the state limitation may not apply for residential districts in Forest Grove. State law prohibits retail sales of marijuana in areas “zoned exclusively for residential use”. (Section 16 (2)(c) of HB 3400) What is not clear is what is meant by the term. The City’s residential zone districts allow a variety of non-residential uses (e.g. colleges, community recreation, neighborhood stores, etc.). It is questionable from staff’s perspective that the City’s residential zone districts would qualify for the prohibition provided by state law. *Thus, there should be an amendment to clarify this matter. The approach recommended by staff would be to exclude the sale of marijuana items as a neighborhood store.*

Retail Operators in Industrial Areas: State law prohibits medical marijuana dispensaries to be at the same address as a grow site. This prohibition does not apply to marijuana related retail outlets, wholesale operations and grow sites for recreational purposes. The current Development Code allows an industrial operator (see discussion below on grow sites, processors and wholesale) up to 5,000 square feet of their operation to sell the product the company manufactures. This could allow a sales outlet for the product at the site. In addition, the definition of wholesale sales allows for limited sales to the general public. Presumably, the buffer provisions from schools for retail sales noted above would apply.

Commercial Marijuana Wholesalers: This term only appears to apply to the wholesale operation for recreational marijuana. There is no reference to wholesale operations for medical marijuana in state law. Section 10.12.140 G. of the Development Code defines wholesale sales as follows:

"Involves sales, leasing or rental of equipment or products primarily intended for industrial, institutional or commercial businesses. Businesses may or may not be open to the general public, but sales to the general public are limited."

Marijuana wholesale activity fits in this definition since it would involve the sale of products primarily intended for commercial businesses. State law defines marijuana wholesale as, "a person who purchases marijuana items in this state for resale to a person other than a consumer." (Section 1(21) of HB 3400)

Marijuana wholesale activities are allowed in only in the General and Light industrial zone districts. There is no buffer restriction from schools or other wholesalers for this use.

Grow Sites (Producers): State law defines "produces" as "manufacture, planting, cultivation, growing or harvesting of marijuana." (Section 1 (26)(a) of HB 3400) Further, HB 3400 (Section 34) defines marijuana production as a "farm use." With the exception of manufacture under this definition, staff finds that marijuana production (grow sites) is considered an agriculture/horticulture activity.

Development Code Section 10.12.150 defines "Agriculture/Horticulture" as:

"Open areas devoted to the raising of fruits, vegetables, nuts, nursery stock and/or flowers; may include on-site sales of products grown on the site."

This use activity (agriculture/horticulture) is permitted in the General and Light Industrial districts. Regarding residential districts, the code is unclear. Horticulture is allowed in all residential districts except the Multi-Unit (High) Residential (RMH) district. However, commercial agricultural uses and buildings and keeping of livestock and poultry – except domesticated fowl – are not permitted. After reviewing the Development Code provisions, the City Attorney concurs that it is not clear. *The Development Code should be clarified as to the status of commercial and medical grow sites in residential districts.* If the production includes manufacture, then the operation is limited to the General Industrial district (see discussion of processors below). No other City zone districts allows for grow sites.

It should be noted that state law limits the number of mature plants per grow site to 12 in residential districts (48 plants per site for other zone districts). Section 82 (3) and (4) of HB 3400 establishes that the number of plants is based on the address of the site.

Marijuana Processors: The definition of marijuana processors under state law is, "a person who processes marijuana items in this state." (Section 1(18) of HB 3400) "Marijuana" means "the plant Cannabis family Cannagaceae, any part of the plant and seeds of the plant." (Section 1(14(a)) of HB 3400) "Processes" means:

"the processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts." (Section 1 (25)(a) of HB 3400)

It may also include the drying of marijuana plant based on the provisions pertaining to what is not included as a producer ("producers does not include the drying of marijuana by a marijuana processor." – Section 1 (26)(b)(A) of HB 3400)

Based on these definitions, it would appear that marijuana processors may be located in the General Industrial zone district. The basis for this determination is that "General Industrial use" (Section 10.12.140 B.2.) is defined [in part] as:

"Manufacturing, processing and assembling of semi-finished or finished products from raw materials."

By contrast, "Light Industrial use" (Section 10.12.140 B.1.) is defined [in part] as:

"Production, processing, assembling, packaging or treatment of finished products from previously prepared materials or components."

Since marijuana is defined by state law as the plant, processing involves raw rather than previously prepared materials. The General Industrial zone district is the only district that such processing activities are allowed.

Potential Amendments

Based on the above analysis, the following possible amendments may be needed:

1. Prohibit marijuana retail sales in Neighborhood Commercial and Town Center zone districts;
2. Revise text on neighborhood stores to clarify that marijuana commercial sales are not included in the definition.
3. Clarify whether commercial and medical grow sites are allowed in the residential districts as an agriculture/horticulture use.
4. Modify Development Code Section 10.8.1100 (development standards for marijuana dispensaries) and City Code Section to apply to all marijuana activities;
5. Add definition to Article 10.12 for "Marijuana Activities" to include those activities regulated by state law and includes at a minimum:
 - Medical marijuana dispensaries;
 - Commercial marijuana retailers;
 - Medical and commercial marijuana processors (preparing edibles, skin and hair products, concentrates and extracts);

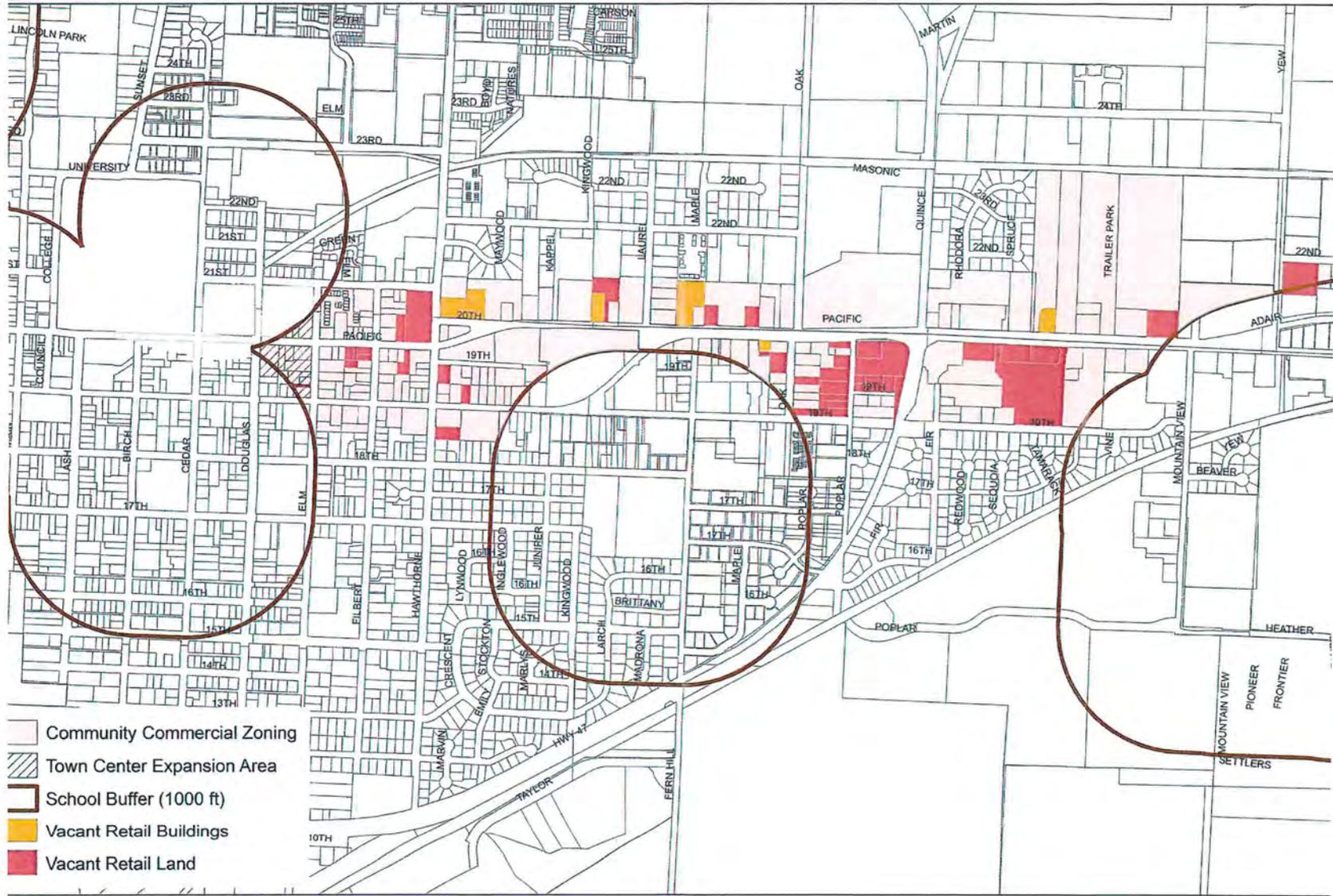
- Medical and commercial marijuana producers (growers); and
- Commercial marijuana wholesalers.

ATTACHMENT 7

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ATTACHMENT 7

Commercial Corridor Vacant Land and Buildings



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PROCLAMATION

Community Action 50th Anniversary Community Action Week ~ October 11 – 17, 2015

WHEREAS, caring, concerned citizens joined together 50 years ago to address the needs of their neighbors struggling to move out of poverty; and

WHEREAS, these dedicated civic leaders founded Community Action on October 13, 1965; and

WHEREAS, for the past 50 years Community Action has led the way to help eliminate conditions of poverty, creating a community where everyone can thrive; and

WHEREAS, Community Action provides hope, help and change to more than 30,000 individuals each year, supporting low-income households as they develop their abilities to be self-sufficient; and

WHEREAS, Community Action understands that it is only through strong collaborations that we can achieve success for families, and therefore serves as catalyst for change through its many public and private partnerships; and

WHEREAS, Community Action will continue to be a leader in helping our community address issues of poverty, even as the region and the issues we face evolve.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FOREST GROVE DOES HEREBY PROCLAIM THE WEEK OF OCTOBER 11 – 17, 2015, as

COMMUNITY ACTION WEEK

In Forest Grove, Oregon, Washington County, in special recognition of the hard work and dedication of Community Action's board, volunteers, and staff, and in recognition of the resilience of the thousands of clients who have created better lives for themselves and their families with the support of Community Action, and in honor of the 50th Anniversary of Community Action.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Forest Grove, Oregon, to be affixed this 14th day of September, 2015.



Peter B. Truax, Mayor, City of Forest Grove

PROCLAMATION

FILL-THE-BOOT FOR MDA September 25 & 26, 2015

WHEREAS, Forest Grove Fire and Rescue has been working with the Muscular Dystrophy Association (MDA) in their fight against neuromuscular disease; and

WHEREAS, "Fill-The-Boot" is an opportunity for Oregon firefighters to ask community members to drop donations into their fire boots to help local families served by MDA in the state. This year marks the 61st anniversary of the partnership between firefighters and MDA in the fight against muscle wasting diseases; and

WHEREAS, through their daily service to the community, and their dedication to the Muscular Dystrophy Association, Forest Grove Fire Fighters contribute greatly to the wellbeing of all its residents; and

WHEREAS, firefighters locally and nationally are the largest contributors to MDA. Forest Grove firefighters collected nearly \$4,000 in 2014 to help the fight against 43 different types of neuromuscular diseases.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FOREST GROVE DOES HEREBY PROCLAIM SEPTEMBER 25 & 26, 2015, as

FILL-THE-BOOT FOR MDA

In Forest Grove, Oregon, Washington County, and encourages all residents of Forest Grove to support the efforts of our local firefighters and the Muscular Dystrophy Association.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Forest Grove, Oregon, to be affixed this 14th day of September, 2015.

Peter B. Truax, Mayor of Forest Grove

3A

**FOREST GROVE CITY COUNCIL WORK SESSION
(BOARDS, COMMITTEES, AND COMMISSIONS INTERVIEWS)
AUGUST 10, 2015 – 5:15 P.M.
COMMUNITY AUDITORIUM – CONFERENCE ROOM
PAGE 1**

Minutes are unofficial until approved by Council.

1. ROLL CALL:

Council President Thomas Johnston called the Work Session to order at 5:20 p.m. **ROLL CALL: COUNCIL PRESENT:** Thomas Johnston, Council President; Richard Kidd; Victoria Lowe; Ronald Thompson; Malynda Wenzl; and Mayor Peter Truax (arrived at 5:26 p.m.). **COUNCIL ABSENT:** Elena Uhing, excused. **STAFF PRESENT:** Thomas Gamble, City Manager Pro Tem, and Anna Ruggles, City Recorder.

2. WORK SESSION: BOARDS, COMMITTEES, AND COMMISSIONS (B&C) INTERVIEWS

The following applicants were interviewed for the following positions:

- Jacob Rose – Sustainability Commission, Pacific University Student Advisory, Term Expiring December 31, 2016
- Mitchell Faris – Library Commission, Forest Grove High School Student Advisory, Term Expiring December 31, 2016
- Brad Bafaro – Parks and Recreation Commission, At-Large, Term Expiring December 31, 2017

After Council deliberation, Council collectively made recommendation to appoint the above-noted applicants. Resolutions making formal appointments will be considered during the regular Council meeting.

3. ADJOURNMENT

Mayor Truax adjourned the work session at 6:10 p.m.

Respectfully submitted,

Anna D. Ruggles, CMC, City Recorder

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3B

**FOREST GROVE CITY COUNCIL WORK SESSION
(POLICE FACILITY NEEDS ASSESSMENT)
AUGUST 10, 2015 – 6:00 P.M.
COMMUNITY AUDITORIUM
PAGE 1**

Minutes are unofficial until approved by Council.

1. ROLL CALL:

Mayor Peter Truax called the Work Session to order at 6:15 p.m. **ROLL CALL:**
COUNCIL PRESENT: Thomas Johnston, Council President; Richard Kidd; Victoria Lowe; Ronald Thompson; Malynda Wenzl; and Mayor Peter Truax.
COUNCIL ABSENT: Elena Uhing, excused. **STAFF PRESENT:** Thomas Gamble, City Manager Pro Tem; Paul Elsner, City Attorney; Paul Downey, Administrative Services Director; J. F. Schutz, Police Chief; Kevin Ellingsburg, Police Captain; and Anna Ruggles, City Recorder.

2. WORK SESSION: POLICE FACILITY NEEDS ASSESSMENT

Downey and Police Chief Schutz facilitated the work session, noting the purpose of the work session was to provide an overview of the Police Facility Needs Assessment Report, prepared by Mackenzie, a full service architectural and engineering firm, hired by the City to work with staff in preparing a needs assessment of the police facility looking at the needs of the Police Department over the next 30 years and the current facility's capability of supporting those needs. Downey advised Council established Council Goal Objective No. 9, Police Department Facility Needs Assessment, noting the objective was carried over for fiscal years 2014-15 and 2015-16 as part of Council's annual goal-setting process and this objective was assigned to the Police Department and Administrative Services. Downey reported Mackenzie assisted staff with an evaluation of the existing conditions of the current police facility; worked with staff to validate the building space-needs program for a replacement facility; and provided conceptual designs and cost estimations for the building, noting the project has been conceived as a build-out to meet the 30-year needs of the Police Department. Downey reported after the initial collaborative programming process, Mackenzie developed a conceptual building and site designs for the facility, envisioned to be approximately 27,000 square feet, with the ability to expand the facility to meet the 30-year needs of the Police Department, with input received from the department staff. Downey referenced the Needs Assessment Report and Executive Summary, noting the report provides the estimated costs required to fund the project based on four different development scenarios as noted below. Downey introduced Mackenzie, consultants, who presented a PowerPoint presentation outlining the existing facility assessment; program validation; and plan development, which included the following scenarios: Scenario 1, explored the option of renovating the existing facility and creating an addition directly adjacent to existing facility;

**FOREST GROVE CITY COUNCIL WORK SESSION
(POLICE FACILITY NEEDS ASSESSMENT)
AUGUST 10, 2015 – 6:00 P.M.
COMMUNITY AUDITORIUM
PAGE 2**

Scenario 2, explored the option of a complete demolition of the existing facility and a rebuild on the existing site; Scenario 3, explored the option of relocating the facility to a different site, located on 19th Avenue between Ash Street and Main Street (this location was selected as an example because of its proximity to other current city facilities and is relatively undeveloped); and Scenario 4, explored the option of other city functions relocating to the existing facility should the station be relocated to an alternate site. MacKenzie reported the existing facility was built in 1977, site is 1.5 acres, and building is 12,868 square feet, noting the program validation determined that a facility of approximately 27,000 square feet would be necessary by the end of the 30-year forecast (2045) to efficiently operate. In conjunction with facility projections, it was determined that secure parking provided for staff and operational vehicles, and public parking are both greatly undersized. Projections indicate a 30-year demand of 15 public parking stalls, 40 spaces for personal staff vehicles, 33 spaces for secure police parking, of which 15 are covered spaces for secure squad car parking. Mackenzie further validated the growth projections and space needs by comparing the program to similar jurisdictions and newly constructed facilities in the region, and at 300 square feet per staff member, the existing facility is well below comparable jurisdictions, when compared to newly completed facilities, which average approximately 500 square feet per staff member. In addition, Mackenzie gave a summary of the Executive Findings and Recommendations, noting based on severe issues with inadequate space for current and future department functions, irregular space of the existing floor plan, and lack of available surrounding land for expansion, the existing facility is challenged to meet current needs or future growth requirements of the department. In conclusion of the above-noted presentation Mackenzie reported Scenario 3 is the recommended and preferred development scenario, relocating to a site suitable for the development of an adequately-sized facility with sufficient parking is recommended, noting examination of the site on 19th Avenue, selected by the City and Police Department, found the site to be sized for the immediate development requirements of a new police station, both for the facility as well as necessary site infrastructure. As proposed, the construction of a new two-story police station (of approximately 27,000 square feet) will have primary access from 19th Avenue from the north, secondary access from Ash Street to the east, and secure parking on the west portion of the site.

Council Discussion:

Mayor Truax opened the floor and roundtable discussion ensued pertaining to the strengths and weaknesses of the existing facility and scenario assessments;

**FOREST GROVE CITY COUNCIL WORK SESSION
(POLICE FACILITY NEEDS ASSESSMENT)
AUGUST 10, 2015 – 6:00 P.M.
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PAGE 3**

space standards; site plans; and projected cost development of each Scenario as follows: Scenario 1, \$10,780,765; Scenario 2, \$10,225,698; Scenario 3, \$12,716,848; and Scenario 4, \$2,242,410. In addition, Downey, Police Chief Schutz and Mackenzie addressed various Council concerns, inquiries, and scenarios posed by Council pertaining to cost development for a new police facility versus renovation costs of the existing police facility; relocating to a different site; and conditions of the current police facility, noting the current facility also does not meet current seismic criteria requirements of essential facilities and several areas of the building are deficient meeting both ADA and current code requirements, and inadequate facilities for interviewing detainees, informants and victims, lack of proper facilities for processing and holding juveniles, and due to site constraints, there is an overall lack of on-site parking and a complete lack of secured parking for department staff. In addition, Mackenzie explained if Scenario 3 is the City's preferred development scenario, the next step is to begin the process of presenting the need for the new/renovated facility to the community to gain support for a bond request in the future. This effort could include public tours of the department, to allow attendees to observe the condition of the existing station; a community visioning session to illicit input from the public and the department to determine the aesthetic goal and civic impact of the facility; and establish an advisory committee, i.e., Public Safety Advisory Commission was recommended for this role. In conclusion of the above-noted discussion and due to limited time, Downey advised he would schedule a follow-up work session with Council to discuss next steps to consider, noting any of the scenarios implemented would require the City to finance the improvements, most likely through the issuance of general obligation bonds, which would require voter approval. Mayor Truax added that he would like to consider having the Annual Town Meeting be an open house on the Police Department's facility needs.

Council took no formal action nor made any formal decisions during the work session.

3. ADJOURNMENT

Mayor Truax adjourned the work session at 7:00 p.m.

Respectfully submitted,

Anna D. Ruggles, CMC, City Recorder

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**FOREST GROVE CITY COUNCIL REGULAR MEETING
AUGUST 10, 2015 – 7:00 P.M.
COMMUNITY AUDITORIUM
PAGE 1**

Minutes are unofficial until approved by Council.

1. ROLL CALL:

Mayor Peter Truax called the regular City Council meeting to order at 7:04 p.m. and led the Pledge of Allegiance. **ROLL CALL: COUNCIL PRESENT:** Thomas Johnston, Council President; Richard Kidd; Victoria Lowe; Ronald Thompson; Malynda Wenzl; and Mayor Peter Truax. **COUNCIL ABSENT:** Elena Uhing, excused. **STAFF PRESENT:** Thomas Gamble, City Manager Pro Tem; Paul Elsner, City Attorney; Paul Downey, Administrative Services Director; George Cress, Light and Power Director; Jon Holan, Community Development Director; Jeff King, Economic Development Manager; Dan Riordan, Senior Planner; Rob Foster, Public Works Director (in the audience); Michael Kinkade, Fire Chief (in the audience); J. F. Schutz, Police Chief (in the audience); and Anna Ruggles, City Recorder.

1. A. RESOLUTION NO. 2015-58 AUTHORIZING THE MAYOR TO DECLARE FOREST GROVE A PURPLE HEART CITY

Mayor Truax presented the above-noted resolution for Council consideration, noting the resolution is declaring Forest Grove as a Purple Heart City. Mayor Truax reported Forest Grove is joining other cities in Oregon as Purple Heart Cities in appreciation of the sacrifices Purple Heart recipients made in defending our freedoms, acknowledging their courage and showing our honor and support.

Before proceeding with Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2015-58.

Kidd read Resolution No. 2015-58 by title.

MOTION: Council President Johnston moved, seconded by Councilor Kidd, to adopt Resolution No. 2015-58 Authorizing the Mayor to Declare Forest Grove a Purple Heart City.

Council Discussion:

Hearing no discussion from the Council, Mayor Truax asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Johnston, Kidd, Lowe, Thompson, Wenzl, and Mayor Peter Truax. NOES: None. ABSENT:

**FOREST GROVE CITY COUNCIL REGULAR MEETING
AUGUST 10, 2015 – 7:00 P.M.
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Councilor Uhing. MOTION CARRIED 6-0.

1. B. PROCLAMATION:

Mayor Truax publicly proclaimed Forest Grove as a "*Purple Heart City*" and August 7, 2015, as "*Purple Heart Day*". Members of the Military Order of the Purple Heart, joined by members of the Forest Grove Elks Lodge, received the proclamation on behalf of the Portland Region, Chapter 72.

Council President Johnston expressed his appreciation to Mayor Truax for proclaiming Forest Grove as a "*Purple Heart City*" and thanked all Purple Heart recipients and other military members in the audience for attending this evening's presentation.

1. C. IF I WERE MAYOR CONTEST WINNER:

Mayor Truax announced Hanna Hepburn, student at Harvey Clarke Elementary School, won 2nd Place at the State level in the 2015 "If I Were Mayor State Contest Poster Winner". As 2nd Place winner, Mayor Truax presented Hepburn with a Kindle Fire on behalf of the Oregon Mayors Association (OMA), noting the State winners were announced at the OMA Summer Conference in August, 2015.

2. CITIZEN COMMUNICATIONS: None.

3. CONSENT AGENDA: Items under the Consent Agenda are considered routine and will be adopted with a single motion, without separate discussion. Council members who wish to remove an item from the Consent Agenda may do so prior to the motion to approve the item(s). Any item(s) removed from the Consent Agenda will be discussed and acted upon following the approval of the Consent Agenda item(s).

- A. Approve City Council Regular Meeting Minutes of June 22, 2015.
- B. Approve City Council Work Session (Employee Handbook) Meeting Minutes of July 13, 2015.
- C. Approve City Council Joint Work Session (Sustainability Commission) Meeting Minutes of July 13, 2015.
- D. Approve City Council Regular Meeting Minutes of July 13, 2015.
- E. Accept Community Forestry Commission Meeting Minutes of April 15, 2015.

**FOREST GROVE CITY COUNCIL REGULAR MEETING
AUGUST 10, 2015 – 7:00 P.M.
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- F. Accept Historic Landmarks Board Meeting Minutes of May 26, 2015.
- G. Accept Parks and Recreation Commission Meeting Minutes of May 20, 2015.
- H. Accept Planning Commission Meeting Minutes of May 18, June 15 and July 6, 2015.
- I. Accept Public Arts Commission Meeting Minutes of June 11, 2015.
- J. Accept Public Safety Advisory Commission Meeting Minutes of May 27 and June 24, 2015.
- K. Library Department Quarterly Statistics Report for FY 2014-15.
- L. Community Enhancement Program (CEP) Final Project Reports 2014-15.
- M. **Endorse New Liquor License Application (Limited-On Premises) for Sauce Enterprises DBA: Thai House 2, 2036 Main Street, Suite B (Applicant: George Womack and Jack Vu)**

MOTION: Councilor Kidd moved, seconded by Councilor Wenzl, to approve the Consent Agenda as presented. Absent: Councilor Uhing.
MOTION CARRIED 6-0 by voice vote.

4. **ADDITIONS/DELETIONS:** None.

5. **PRESENTATIONS:**

5. A. **Washington County Large Lot Industrial Site Assessment:**
King and Cress introduced consultants from Mackenzie who presented a PowerPoint presentation outlining the Washington County Large Lot Industrial Site Assessment Study, including the project purpose; project funding; project roles; regional context; detailed site assessments for 15 large industrial sites in Washington County, including five sites in Forest Grove; findings; site readiness; transportation and utilities; site development; site marketability; outcomes of development; next steps; and provided a web link to the project:
<http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/PlanningPrograms/CommunityPlanning/industrial-lands.cfm>. King reported Washington County served as project leader and Mackenzie was hired as the consultant to prepare the analysis, noting the primary purpose of the project was to evaluate industrial development sites throughout

**FOREST GROVE CITY COUNCIL REGULAR MEETING
AUGUST 10, 2015 – 7:00 P.M.
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PAGE 4**

Washington County in order to identify common barriers to traded sector job growth and to leverage public investments to better promote private investment. In addition, King reported none of the 15 sites evaluated were considered development ready, noting the major barrier to becoming development ready is cost, mainly to offsite infrastructure. King indicated the costs for Forest Grove sites to become development ready range from \$1.3 million to \$5.5 million, noting staff has begun reviewing and addressing the site development steps and identifying potential funding for offsite infrastructure. In conclusion of the above-noted presentation, King, Cress and consultants addressed various Council inquiries pertaining to the industrial site assessment study and findings.

5. B. People for Libraries:

Debbie Clark and Mike Smith, President of Friends of Forest Grove Library, gave an overview of the Washington County Cooperative Library Services Replacement Local Option Levy Ballot Measure 34-235 and thanked Council for their support.

6. RESOLUTION NO. 2015-59 OF THE FOREST GROVE CITY COUNCIL SUPPORTING THE WASHINGTON COUNTY COOPERATIVE LIBRARY SERVICES REPLACEMENT LOCAL OPTION LEVY BALLOT MEASURE 34-235

Staff Report:

Mayor Truax presented the above-proposed resolution for Council consideration, noting the proposed Council resolution is supporting the Washington County Cooperative Library Services Replacement Local Option Levy Ballot Measure 34-235, which is on the November 3, 2015, General Election ballot. Mayor Truax reported the proposed levy is replacing the current levy that expires in June 2016, and is levying \$0.22 (an increase of \$0.05 over the current rate) per \$1,000 assessed value for five years, beginning in 2016.

Before proceeding with Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2015-59.

Gamble read Resolution No. 2015-59 by title.

MOTION: Councilor Wenzl moved, seconded by Councilor Thompson, to adopt Resolution No. 2015-59 of the Forest Grove City Council Supporting the Replacement of the Washington County

**FOREST GROVE CITY COUNCIL REGULAR MEETING
AUGUST 10, 2015 – 7:00 P.M.
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PAGE 5**

Cooperative Library Services Local Option Levy Ballot Measure 34-235.

Council Discussion:

Hearing no discussion from the Council, Mayor Truax asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Johnston, Kidd, Lowe, Thompson, Wenzl, and Mayor Peter Truax. NOES: None. ABSENT: Councilor Uhing. MOTION CARRIED 6-0.

7. RESOLUTION NO. 2015-60 OF THE FOREST GROVE CITY COUNCIL SUPPORTING THE WASHINGTON COUNTY PUBLIC SAFETY RENEWAL LOCAL OPTION LEVY BALLOT MEASURE 34-236

Staff Report:

Mayor Truax presented the above-proposed resolution for Council consideration, noting the proposed Council resolution is supporting the Washington County Public Safety Local Option Levy Ballot Measure 34-236, which is on the November 3, 2015, General Election ballot. Mayor Truax reported the proposed levy is renewing the current levy that expires in June 2016, and is levying the same rate of \$0.42 per \$1,000 assessed value for five years, beginning in 2016.

Before proceeding with Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2015-60.

Gamble read Resolution No. 2015-60 by title.

MOTION: Councilor Kidd moved, seconded by Council President Johnston, to adopt Resolution No. 2015-60 of the Forest Grove City Council Supporting the Renewal of the Washington County Public Safety Local Option Levy Ballot Measure 34-236.

Council Discussion:

Council President Johnston noted the levy funds 16 percent of the total budget and affects Forest Grove locally.

Hearing no further discussion from the Council, Mayor Truax asked for a roll call vote on the above motion.

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ROLL CALL VOTE: AYES: Councilors Johnston, Kidd, Lowe, Thompson, Wenzl, and Mayor Peter Truax. NOES: None. ABSENT: Councilor Uhing. MOTION CARRIED 6-0.

8. **CONTINUE PUBLIC HEARING FROM JULY 13, 2015: SECOND READING OF ORDINANCE NO. 2015-07 OF THE CITY OF FOREST GROVE GRANTING A NON-EXCLUSIVE CABLE TELEVISION FRANCHISE TO COMCAST OF OREGON II, INC.**

The first reading of Ordinance No. 2015-07 by title occurred at the Council meeting of July 13, 2015.

Staff Report:

Downey presented the above-proposed ordinance for second reading, noting staff had nothing further to report.

Public Hearing Continued:

Mayor Truax continued the Public Hearing from the meeting of July 13, 2015, and explained hearing procedures.

Written Testimony Received:

No written testimony was received prior to the published deadline of August 10, 2015, 7:00 p.m.

Proponents:

No one testified and no written comments were received.

Opponents:

No one testified and no written comments were received.

Others:

No one testified and no written comments were received.

Public Hearing Closed:

Mayor Truax closed the Public Hearing.

Council Discussion:

Hearing no discussion from the Council, Mayor Truax asked for a roll call vote on the motion made at the meeting of July 13, 2015.

Gamble read Ordinance No. 2015-07 by title for second reading.

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ROLL CALL VOTE: AYES: Councilors Johnston, Kidd, Lowe, Thompson, Wenzl, and Mayor Peter Truax. NOES: None. ABSENT: Councilor Uhing. MOTION CARRIED 6-0.

9. **RESOLUTION NO. 2015-61 AUTHORIZING THE CITY MANAGER PROGRAM TO EFFECT THE SALE OF THE TIMES LITHO PROPERTY TO THE URBAN RENEWAL AGENCY OF THE CITY OF FOREST GROVE AND TO ENTER INTO A PURCHASE AND SALE AGREEMENT (AND OTHER AGREEMENTS AS NECESSARY) WITH THE AGENCY**

Staff Report:

Downey, Holan and Riordan presented the above-proposed resolution for Council consideration, noting the proposed resolution is authorizing to sell and convey the Times Litho property (subject property is located north of Pacific Avenue between A Street and B Street and includes the following tax lots: 1S306BB03400, 1S306BB03700, 1S306BB03702, 1S306BB03800, 1S306BB04100, 1S306BB04200, 1S306BB04300, 1S306BB04301, 1S306BB04400, 1S306BB04500) from the City (Seller) to the Urban Renewal Agency (URA) (Buyer) for a purchase price of \$1.1 million. Downey reported a joint work session was held June 8, 2015, with Council and URA to discuss the possibility of transferring the property as the URA is better suited, due to tax increment resources, to achieve development of the Times Litho site, noting the payoff arrangements will be staged in a way to allow the URA to reimburse the City over time but allow a sufficient cash flow for the URA to meet other obligations and pursue other programs as established in the URA Plan. Downey advised staff considered several options to structure the repayment note, noting staff is proposing to begin immediate repayment with interest only payments (proposed interest rate of 2.5 percent) for the first three years and principal and interest payments with the note being fully paid in ten years. Downey explained if no development occurs within the urban renewal area within the first three years, staff may recommend to the Council and URA that the repayment terms be modified to allow the URA ability to do other projects within the URA boundary. In conclusion of the above-noted staff report, Downey advised the City Attorney drafted the proposed Purchase and Sale Agreement, attached as Exhibit A, and staff is recommending Council approve the proposed resolution.

Before proceeding with Public Hearing and Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2015-61.

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Gamble read Resolution No. 2015-61 by title.

MOTION: Council President Johnston moved, seconded by Councilor Kidd, to adopt Resolution No. 2015-61 Authorizing the City Manager Pro Tem to Effect the Sale of the Times Litho Property to the Urban Renewal Agency of the City of Forest Grove and to Enter into a Purchase and Sale Agreement (and other agreements as necessary) with the Agency.

Public Hearing Opened:

Mayor Truax opened the Public Hearing postponed from the meeting of July 13, 2015, and explained hearing procedures.

Written Testimony Received:

No written testimony was received prior to the published deadline of July 13, 2015, 7:00 p.m.

Proponents:

No one testified and no written comments were received.

Opponents:

No one testified and no written comments were received.

Others:

No one testified and no written comments were received.

Public Hearing Closed:

Mayor Truax closed the Public Hearing.

Council Discussion:

Hearing no discussion from the Council, Mayor Truax asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Johnston, Kidd, Lowe, Thompson, Wenzl, and Mayor Peter Truax. NOES: None. ABSENT: Councilor Uhing. MOTION CARRIED 6-0.

10. RECESS REGULAR COUNCIL MEETING TO CONDUCT URBAN RENEWAL AGENCY MEETING:

Mayor Truax recessed the regular Council meeting at 8:36 p.m. to conduct an Urban Renewal Agency (URA) Meeting (refer to separate URA minutes

**FOREST GROVE CITY COUNCIL REGULAR MEETING
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dated August 10, 2015).

11. **RECONVENE REGULAR COUNCIL MEETING:**
Mayor Truax reconvened the regular Council meeting at 8:41 p.m.
12. **RESOLUTION NO. 2015-62 AUTHORIZING THE ADDITION OF A FULL-TIME POLICE OFFICER FOR FOREST GROVE'S PARTICIPATION IN TRI-MET POLICING PROGRAM**

Staff Report:

Police Chief Schutz and Downey presented the above-proposed resolution for Council consideration, noting the proposed resolution is authorizing the addition of a full-time equivalent (FTE) Police Officer in order for the City to renew its participation in the Tri-Met Policing Program. Downey reported Tri-Met's Policing Program is a three-year program, which starts paying 105 percent of the Forest Grove officer's salary and benefits, with five percent going to cover some of the officer's non-salary costs, in year one of the program. Downey advised the addition of a fourth officer would require approximately \$20,000 in additional General Fund funding to the Police Department to pay for the costs of the position from October 1, 2015, through June 30, 2016. Schutz reported the Police Department is currently recruiting to fill two officer vacancies and replace an officer who will be promoted to the newly created Sergeant's position as of January 1, 2016, noting the three above-noted positions were approved in the Fiscal Year 2015-16 budget. Schutz explained the fourth officer would replace the officer that would be assigned to the Tri-Met Policing Program, noting she is seeking to hire the fourth officer from the recruitment that is currently underway, instead of waiting until March 2016, so all officers can enter basic training at the same time. Schutz noted the City has a greater pool of qualified applicants than in previous recruitments and the training academy classes are filling up fast making it more difficult to accommodate police officer training.

Before proceeding with Council discussion, Mayor Truax asked for a motion to adopt Resolution No. 2015-62.

Gamble read Resolution No. 2015-62 by title.

MOTION: Council President Johnston moved, seconded by Councilor Wenzl, to adopt Resolution No. 2015-62 Authorizing the Addition of a Full-Time Police Officer for Forest Grove's Participation

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in Tri-Met Policing Program.

Council Discussion:

In response to Lowe's concern pertaining to the budget process, Downey affirmed the new sergeant position (five FTE) and two police officer positions (22 FTE) were appropriated in Fiscal Year 2015-16 budget and concurred that adding a new transit police officer (bringing total to 23 FTE) was not part of the budget discussion. Schutz stressed the importance of maintaining service levels by staying ahead of staffing challenges and academy training difficulties rather than attempting to play "catch up", to which Lowe indicated she understands the reasons, but she does not like the mode of staff adding a fourth officer position that was not discussed during the budget process. Downey advised if the new position is added, staff would monitor the Police Department's budget to ensure its budget is not being overspent.

In response to Kidd's inquiry pertaining to transit police uniform, Schutz affirmed the officer would wear Forest Grove's uniform while working in Tri-Met's Policing Program.

Mayor Truax referred to Bullet Number 2 in the staff report, noting committing back to transit is a wise investment and allows for information sharing and collaboration with other metro area agencies.

Hearing no further discussion from the Council, Mayor Truax asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Johnston, Kidd, Lowe, Thompson, Wenzl, and Mayor Peter Truax. NOES: None. ABSENT: Councilor Uhing. MOTION CARRIED 6-0.

13. CITY MANAGER PRO TEM'S REPORT:

Gamble reported on upcoming events as noted in the Council calendar and reported on other various upcoming local meetings and community-wide events as noted in the City Manager Pro Tem's Report. Gamble announced the Aquatic Center would be closed from August 31 through September 8, 2015, for its annual maintenance shut down. Gamble commended the Public Safety Advisory Commission and dedicated staff that assisted, noting National Night Out was a huge success and many positive comments were heard from the community. In addition, Gamble distributed a copy of the City Manager Pro Tem's written report, which

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outlined various attended meetings and updates on various City department-related activities, projects, and upcoming city-wide events.

14. COUNCIL COMMUNICATIONS:

Council President Johnston reported on attending three meetings in Salem. Johnston commended Public Safety Advisory Commission (PSAC), noting PSAC did a great job on National Night Out. Johnston reported on Forest Grove Rural Fire Protection District-related matters, noting current Board members include Cleo Howell, President; Kevin VanDyke, Vice President, re-elected; Randy Sahnou, Director; Nick Chan, Director, newly-elected; and Dallas Boge, Secretary/Treasurer, newly-elected. In addition, Johnston reported on other matters of interest and reported on upcoming meetings he was planning to attend.

Kidd reported on Historic Landmarks Board (HLB)-related meeting, noting HLB has published a new brochure on Historic Homes in Forest Grove. Kidd announced the HLB is seeking board members, noting HLB currently has three vacancies and a student advisory vacancy to fill. Kidd reported on his attendance as part of the delegation visit to Nyuzen, Japan, Forest Grove's Sister City, noting the Sister Cities Committee is seeking home stay families for the upcoming Nyuzen Student Delegation visit, arriving October 29 and departing November 2, 2015. In addition, Kidd reported on other matters of interest and reported on upcoming meetings he was planning to attend.

Lowe reported on Sustainability Commission-related matters and commended Edgar Sanchez-Fausto, Forest Grove High School Student Advisor, noting Edgar is very involved and is highly motivated. Lowe reminded everyone to attend the 4th Annual Birds and Brew Festival on Saturday, August 22, 2015, 9 a.m. to 3 p.m. and learn about wetland critters, migratory birds, wildlife photography, and natural treatment wetlands at Fernhill Wetlands, noting she is a member of the Fernhill Wetlands Board. In addition, Lowe reported on other matters of interest and reported on upcoming meetings she was planning to attend.

Thompson commended Public Safety Advisory Commission (PSAC), noting National Night Out was a huge success. Thompson reported GroveLink Transit is celebrating its second year, noting the program continues to grow. In addition, Thompson reported on other matters of interest and upcoming meetings he was planning to attend.

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Uhing was absent.

Wenzl reported attending Committee for Citizen Involvement (CCI) meeting, noting CCI is hosting a Town Hall Forum on the plastic bag ordinance on September 2, 2015, 7:00 p.m., Community Auditorium. Wenzl announced Fernhill Wetlands is hosting its 4th Annual Birds and Brew Festival on Saturday, August 22, 2015, 9 a.m. to 3 p.m. at Fernhill Wetlands. Wenzl reported on her attendance as part of the delegation visit to Nyuzen, Japan, Forest Grove's Sister City, noting she was very pleased to represent Forest Grove as part of the adult exchange program. In addition, Wenzl reported on library fundraisers, other matters of interest and upcoming meetings she was planning to attend.

Mayor Truax announced dates of various upcoming activities and meetings as noted in the Council Calendar. Mayor Truax reported attending the Oregon Mayors Association Summer Conference. Mayor Truax invited everyone to attend the 25th Annual Sidewalk Art Festival, Saturday, September 19, 2015, 8:00 a.m. to 4:00 p.m., rain or shine, and the 51st Annual Corn Roast, Saturday, September 19, 2015, 12:00 p.m. to 5:00 p.m., Pacific University Campus. Mayor Truax recapped Forest Grove's visit to Nyuzen, Japan, Forest Grove's Sister City. In addition, Mayor Truax reported on other various local, regional, Metro, and Washington County meetings he attended and community-related events and upcoming meetings he was planning to attend.

15. ADJOURNMENT:

Mayor Truax adjourned the regular meeting at 9:20 p.m.

Respectfully submitted,

Anna D. Ruggles, CMC, City Recorder

Members Present: Jennifer Brent, George Cushing, Kaylene Toews, Holly Tsur (via phone)
Staff Present: James Reitz
Council Liaison: Richard Kidd
Citizens Present: 02

1. **Call to Order:** Toews opened the meeting at 7:15 p.m. **The meeting minutes of May 26, 2015, were approved as submitted.** (Due to a lack of action items, no meeting was held in June).

2. **Citizen Communication:** None.

3. **Action Items / Discussion:**

A. Renovation Grant Request: Mary Black House ADU at 2023 17th Avenue (Washington County tax lot 1S3 6BC-1500). Applicant: Peter Holmes. File Number: HLR-15-00948. This project involves removal of previously installed vinyl siding from the accessory dwelling unit (ADU) and replacing it with cedar clapboards, as was originally on the house. The Holmes' advised that they had started this project when the electric box was updated. They had removed vinyl siding on one small wall in hopes of retaining the original cedar siding, but determined that the condition was too poor to be restored due to holes having been drilled to install blow-in insulation as well as some dry rot, nail holes, etc. They are able to obtain clapboards that are the same dimensions as the originals, with a slight groove to improve the weatherability, and are going to replicate the corner board style of a restored house nearby that would be historically accurate. Mr. Holmes distributed samples of the proposed siding for examination.

There was some concern about the ADU being non-contributing on the original survey because of replacement windows in addition to the vinyl siding. Mr. Holmes replied that the home has the original wood windows with aluminum storm windows, which may have caused the error in documentation. It was noted that the front door was not the original either (it's a steel door) but that it could be easily replaced at any time. Thus, consistent with SHPO policy, by replacing the siding the home would be brought back to a contributing status.

Kidd asked if the existing cedar siding reveal would be maintained. Mr. Holmes replied that it would.

As the siding sample had both a smooth side and rough side, Reitz asked which side would be exposed. Mr. Holmes replied that it would be smooth-side out.

This is a materials-only grant request. Mr. Holmes said that this is his third historic home project and he feels very confident that they can do the job themselves with an end result that would be even better than having a contractor do it. They noted that the siding they replaced already went very smoothly.

Cushing/Brent to award a \$1,000 grant. Motion carried unanimously.

B. Design Guidelines and Standards – Annual Notice: Reitz commented that the existing notice was informative, but that it needed updating to be more interesting and include more information, especially as it will now be mailed to a lot more homeowners in the districts due to the adoption of the design guidelines and standards. Toews volunteered to work on the rewrite and Tsur offered to help on the editing.

C. Summer Newsletter: Toews expressed concern about continuing the newsletter, what with all the other commitments ahead and the few members currently on the Board. Tsur noted that we had some ideas for future issues but she agreed that a hiatus might be in order; Brent concurred. Reitz commented that the seismic upgrade article in the most

recent issue had already resulted in two new inquires about retrofit projects. Tsur said that the Spring issue review of project grants awarded was a very good issue and very informative. It was noted that with more members, or after the strategic plan was completed, perhaps the need for or format of the newsletter would change. **Brent/Tsur to place the newsletter on hiatus until March 2016. Motion carried unanimously.**

The Board will reconsider this issue at the March 2016 meeting.

- D. Strategic Plan – Recruitment:** Reitz noted that these two issues were closely related. The strategic plan RFP will go out in August, with the intent of getting a consultant onboard by October.

He noted that the planning effort would be better if there were more Board members. More members would make all of our projects easier to proceed, as we have three vacancies now and only four members. He recommended a targeted recruitment program, and requested that the Board suggest specific people to approach. The suggestions included the historicforestgrove.com website owners, someone from FHFG, the architect of the recent Bailey house project, any Washington County planner with a preservation background, someone from the Washington County Visitors and Convention Bureau, the McMenamins historian, someone from David Hill Winery, past grant recipients and a few others. Tsur asked if Board members all have to reside in the city. Reitz replied that up to two could reside elsewhere.

Reitz said he could locate contact information for most of the suggested names. Brent said she would work on a recruitment letter of three or four paragraphs; Tsur said she would help also, and asked everyone to provide a few bullet points on what they feel are advantages to being on the Board.

4. New Business:

- Council Liaison Report: Kidd updated the Board of various items of interest, including the City delegation trip to Japan. He noted that the Board needs to establish a design review process as well as an action plan to quickly review requests. Reitz concurred, and also noted that we're due for an update on our legal training.
- Tsur asked about doing another postcard promoting the renovation grants. Toews replied that the annual notice could fulfill this need even better and said she will place a high priority on getting that out.
- Cushing asked if the Board would consider some kind of recognition for the work Rob Dortignacq did on the design guidelines and standards. Kidd suggested that the Mayor present him with a Forest Grove ambassador coin. After further discussion the Board decided on a plaque. Cushing will contact Award Presentations to have one prepared.
- Because two Board members would not be available for the regular August 25th meeting, it was decided to move it up a week to August 18th.

- 5. Adjournment:** The July 28, 2015 meeting adjourned at 8:33 p.m.

These minutes respectfully submitted by George Cushing, Secretary

3E

APPROVED

Library Commission approved minutes as amended on date Aug 11, 2015.

1. **CALLED TO ORDER AND ROLL CALL:**

Pamela Bailey, Chair, called the meeting of the Library Commission to order at 6:30PM on Tues June 2, 2015.

Members Present: Pamela Bailey, Chair; Doug Martin; Jon Youngberg, Secretary.

Members Absent: Kathleen Poulsen, Vice-Chair; Nickie Augustine;

Staff: Colleen Winters, Library Director

Council Liaison: Malynda Wenzl

Others: None.

2. **ADDITIONS/DELETIONS:** None.

3. **APPROVE LIBRARY COMMISSION MEETING MINUTES OF (May 12, 2015):**

MOTION: Doug moved, seconded by Jon, to approve the May 12, 2015 minutes as amended. **MOTION CARRIED** by all.

4. **CITIZEN COMMUNICATIONS:** None.

5. **INFORMATIONAL ITEMS:**

5a. **FOUNDATION REPORT:** Colleen Winters reported about the Library Foundation of Forest Grove:

a) At its most recent board meeting, continued discussion of goals and ideas for future efforts.

b) Focus will be on completion of current campaign (i.e. raising \$150,000 for Children's portion of the library, Rogers Room, Adult Fiction area, and the two Study Rooms.) Has spent approximately \$75,000 so far, including for a sound system and podium for the Rogers Room. Remaining effort is to raise \$75,000 for a list of desired improvements including better signage and seating, in the older portion of the library.

- c) Phase 2 of effort might also focus on a “Sense of Arrival” to help make it clear that one has entered the Children’s area of the library. Signage & visual aids. Perhaps a mural, a structure, or art work of some kind. Something that will fit in within the library and within the budget. Possibly high school and college students could have a design competition. The Forest Grove Arts Commission could sponsor this.
- d) See the Library Foundation of Forest Grove’s web site (www.fglf.org).

5b. **FRIENDS REPORT:** Colleen Winters reported about the Friends of the Forest Grove Library:

- a) The Spring Used Book Sale has been completed. Approximately \$4700 was raised, a little less than expected, but still a good result. Carol Woodford is stepping down from running the used book sales, and has now completed her last used book sale.
- b) Susan Munger is stepping down as co-leader of the Cultural Series.
- c) Online book sales continue to go very well.
- d) Mike Smith will come to a Commission meeting to tell us of the Friend’s goals and objectives, chosen at their recent Annual Retreat. The goals and objectives are being discussed, prioritized, and finalized.
- e) The Friends web site is at: fglibraryfriends.org.

5c. **COUNCIL LIAISON REPORT :**

- a) Jesse VanderZanden was chosen to be Forest Grove’s next City Manager. He is originally from Hillsboro, has been the Fairbanks, Alaska airport manager, and could start here in August.
- b) Budget Committee has approved next year’s budget. Will go to the City Council for its approval June 22.
- c) Possible CEP grants (Community Enhancement Program) discussed by City Council.
- d) Fire Department presentation.
- e) Discussion, with the Sustainability committee, of possible ban of plastic shopping bags.

5d. **LIBRARY DIRECTOR’S REPORT:** Colleen Winters reported these items:

- a) The library’s Circulation Policy will be discussed by Robyn at the July meeting of the Library Commission.
- b) Summer Reading program began June 1.

- c) At the Monday June 8 City Council meeting, a WCCLS informational presentation will be given. The County Commission has approved the proposed 22-cent per \$1000 property value levy vote to be in Nov 2015.
- d) The Budget Committee has proposed an additional part-time “intermittent” 15 hr per week adult service reference librarian for the library. This is a somewhat new position, replacing some (but not all) of the “on-call” library personnel budget. (The new budget also adds a new Fire Dept position, and a new Sustainability person.)
- e) WCCLS held a professional photo taking session at the Forest Grove library, on Sunday May 31, from 1 to 4PM. They wanted some of the photos to have local people in them. The photos will be used for promotional materials, etc. 50 local people showed up to be in the pictures. All sorts of photos were taken. A wide mix of people, ages, families, and activities were in the photos. Everyone had a good time. Our library will get to have the photos as well.
- f) The Budget Committee also increased the materials budget by \$4000 for next year to a total of \$83,000. Colleen discussed a “Collection Development Statement” for the upcoming fiscal year, with this known budget. How is the library going to spend this money in the next year? What changes are being made in spending on the Collection, and why? Some of the changes are:
1. Increased spending on Blu-Ray DVD movie materials
 2. Increased spending for Adult Non-Fiction materials as a fraction of the unchanged total amount of Adult materials spending.
 3. Increased spending for Children’s books and audiovisual materials.
 4. Increased spending on Large Print materials
 5. Purchase of three (Kindle) e-readers pre-loaded with bestsellers and favorite items for adults, and one e-reader with Young Adult series titles.
 6. Increased spending on music CDs, which are surprisingly popular.
- g) Colleen lastly mentioned the issue of “Holdables”. Non-holdables are items of a local library’s collection that are (perhaps temporarily) not shared across WCCLS (that is, all of the county’s libraries), but only available to visitors of the local library. Our library’s popular “Lucky Day” collection is “non-holdable”, and is only available to visitors of the Forest Grove City Library, perhaps for the first few months. So? WCCLS libraries are supposed to share items in the collections of the individual libraries, but there are exceptions like for our “Lucky Day” items. This is a contentious “policy vs. practice” issue, with discussions continuing within the WCCLS.

6. **DISCUSSION OF ITEMS:**

a) **Two vacancies on the Library Commission.** Several specific people were mentioned who will be asked to apply to join the Library Commission. Hoping to find a candidate from the Planning Process attendees. Would like the two new people to be on the Commission, and ready to participate, by the Sept and Oct planning meetings. It is possible that a student member may be joining the Library Commission soon.

b) **“Future of the Forest Grove City Library” Strategic Planning process** continues.

1) Continued discussion of who to invite for the 12 to 18 person Community Planning Committee meetings. List with many specific people and organizations was worked on. Want people who have some connection to, or interest in, the library. Want to have committee members chosen, and committed to attend the two planning meetings very soon.

2) Dates chosen for the two big meetings for our process. (Sep 7 is Labor Day.) The first big meeting that the Community Planning Committee will have is scheduled for Sat Sep 12, 9am to 1pm. There will be a break or two, perhaps for coffee and snacks. The shorter follow-up meeting is planned for Sat Oct 17.

7. **ANNOUNCEMENT OF NEXT MEETING:**

The next Library Commission meeting will be held on Tues July 21, 2015 at 6:30PM in the Rogers Conference Room at the Forest Grove Library.

8. **ADJOURNMENT:**

Hearing no further business, Chair Bailey adjourned the meeting at 8PM.

Minutes respectfully submitted by:

Jon Youngberg, Library Commission Secretary

PARKS AND RECREATION COMMISSION REGULAR MEETING

WEDNESDAY, JUNE 17, 2015

COMMUNITY AUDITORIUM CONFERENCE ROOM

APPROVED

PAGE 1 OF 2

1) ROLL CALL:

- a) Commissioners – Paul Waterstreet, Susan Taylor, Ralph Brown, Howard Sullivan, Jeremiah Toews and Glenn VanBlarcom. Absent – Quinn Johnson and Todd Winter.
- b) Council Liaison – Tom Johnston
- c) Staff – Tom Gamble

2) CITIZEN COMMUNICATIONS: Jill Rehkopf Smith with the Forest Grove News-Times informs all that Travis Loose will be interning at the Forest Grove News-Times for the summer of 2015 and will likely be attending the Parks and Rec Meetings.

3) APPROVAL OF MINUTES: The minutes of the May 20, 2015 meeting were approved.

4) ADDITIONS/DELETIONS: None

5) OLD BUSINESS:

- a) Master Plan Progress Report
 - i. The 75 page plan was received on 6/16/15 and is now being reviewed.
 - ii. September is the estimated date the survey will be taken.
 - 1. At this time, the survey is anticipated to be an online survey.
- b) Old Town Loop Progress Report
 - i. Still in the permitting process.
 - ii. Estimated completion date is spring 2016.
- c) Community Enhancement Program (CEP) Presentation
 - i. \$1,800 was submitted on behalf of the Parks and Rec Committee for brochures. The amount is comprised of \$900 for printing and \$900 to contract a graphic designer.
 - ii. Results of CEP grants will be announced Monday, June 22, 2015 at the next City Council meeting.

6) NEW BUSINESS:

- a) Pacific University Scoreboard Proposal
 - i. Daktronics to install a 42'3" wide by 28'3" tall scoreboard that sits on 14' legs.

PARKS AND RECREATION COMMISSION REGULAR MEETING

WEDNESDAY, JUNE 17, 2015

COMMUNITY AUDITORIUM CONFERENCE ROOM

PAGE 2 OF 2

- ii. Paul Waterstreet moved to accept the proposal with two conditions. Ralph Brown seconded the motion.
 - 1. First condition is for Pacific University to repaint the barber pole.
 - 2. Second condition is for Pacific University and Daktronics to mount the flag at the top of the new scoreboard or, if that is not possible, relocate the flagpole.
 - 3. Motion was adopted with a unanimous vote.
- b) Summer Schedule(s)
 - i. Swim lessons are booked full.
 - ii. Free swim on Saturday nights from 6:00 to 7:30 pm starts on June 20th and ends August 29th.
 - iii. Skyhawks starts 6/22 and will be moving to Lincoln Park this year.
- c) Aquatics and Parks Revenue Report
 - i. Forecasted to exceed last year's revenue figures. Looking to break the \$300,000 mark for the pool revenue.
 - ii. Adding a new three month membership for June-July-August.
- d) Budget 2015-2016
 - i. Items added to the 2015-2016 budget:
 - 1. Restrooms in Rogers Park.
 - 2. 'New' pickup from another dept in the parks and rec fleet
 - ii. Utility budget will be lower which is attributable to the new boilers.

7) COMMISSIONER'S REPORTS:

- a) Ralph Brown – Re-elected to the school district school board.
- b) Susan Taylor – Dave Eaton cabinet is installed at the Aquatics Center. In the process of gathering memorabilia to store in the cabinet.

8) COUNCIL LIAISON REPORT:

- a) Tom Johnston
 - i. Gaston Fire is contracting the Forest Grove Fire and Rescue for shared chief services.
 - ii. The 2015-2016 is being finalized and due on Friday, June 19th.

9) STAFF REPORTS: None

10) ANNOUNCEMENT OF NEXT MEETING: Next meeting is July 15th at 7:00 a.m.

11) ADJOURNMENT: The meeting was adjourned at 8:16 a.m.

APPROVED

PUBLIC ARTS COMMISSION

Thursday, July 9, 2015

Community Auditorium

Page 1

MINUTES APPROVED BY THE PAC on AUGUST 13, 2015

PRESENT: Emily Lux, Linda Taylor, Dana Zurcher, Kathleen Leatham, Youth Rep. Yasmine Weil-Pourfard, Dana Lommen, Helvi Smith, Richard Kidd, Staff Liaison Colleen Winters

Guest(s): None

Absent: Pat Truax, Kathy Broom, Laura Frye

1. **CALL TO ORDER:** Kathleen called the meeting to order at 5:02pm.

2. **CITIZEN COMMUNICATION:** N/A

3. **APPROVAL OF PAC MEETING MINUTES:** Motion to approve last month's minutes as written made by Dana Zurcher, seconded by Dana Lommen. Motion accepted.

4. **ADDITIONS/DELETIONS:**

- Business Item C: Arts Grants Opportunities: Linda Taylor

5. **BUSINESS:**

- A. **2015-2016 CEP Grant Awards: Arts for a Community-\$3,850; Art Goes to the Park-\$5,600:** The Fire Fighters Association also received \$2,500 for the fire station mural. All funds are immediately available. A subcommittee and fundraising plans are needed to proceed with the public sculpture acquisition process. The subcommittee will be responsible for outlining a call for proposals, adjudication process and sculpture request parameters. Volunteers included Dana Z., Dana L., Emily, Helvi and Yasmine. The first subcommittee meeting is scheduled for Monday, July 13th at the King's Head at 6pm. It is important that all members of the Public Arts Commission is complicit in the entire acquisition process, including fundraising. This process needs to be completed by May, with the sculpture unveiling projected to be at either the June or July first Wednesday event.

B. Fundraisers: Plum Hill Vineyards; Global Dance and Song: Plum Hill would prefer to hold the fundraising event in the fall. Laura and her partner for the Global Dance and Song event had requested Saturday dates that are unfortunately unavailable. The event will be held on a Sunday, September 13th, if possible. This date is still subject to change. The event menu and program are set. The library is closed on Sundays.

C. Updates:

- First Wednesday booth: PAC did not participate in July due to excessive heat.
- Walking Brochure final copy: A proof was presented. The final copy was delayed by the printing company and will arrive later in the week. The final brochures will be delivered to local organizations for public distribution. A typographical error was noted and will be corrected in the next version. This brochure is a fluid document that will continue to be amended in the future to include new acquisitions and locations.
- Finance Report: A reminder to give leadership gifts to PAC was given. Several members provided gifts, which were delivered to Bev Maughan.

6. COMMISSIONER COMMUNICATIONS:

- Richard Kidd:
 - Richard is trying to add language to the CEP guidelines that would accommodate 3-5 year projects.
 - University Avenue will be closed for “multiple months” for major construction.
 - Saturday, July 18th at 1:30, at 3417 19th Avenue, there will be a Habitat for Humanity celebration. At this event, the family will be given the keys to their new home, with public tours and refreshments.
- Linda Taylor: On Saturday, August 1st from 10am to noon there will be a reading celebration at the library. The event theme is “Every Hero Has a Story” and volunteers are needed.
- Dana Lommen: Aladdin is opening at the Theatre in the Grove. It will run for two weekends, and is a 45 minute production.
- Helvi Smith: Green Cab Artfest is happening at Helvi’s studio on Saturday, July 11th from 10am to 4pm. There will be an Artosaur present-a 6’ tall dinosaur sculpture to advertise art.

7. STAFF COMMUNICATIONS:

- Colleen Winters:
 - The bench has been refurbished and reinstalled. It looks excellent.
 - There was brief discussion of CEP grant funds being dedicated to future art maintenance and repair. Discussion tabled.
 - A Border Collie summer reading program event was held at the library this morning. 190 children were in attendance. The event was so popular that some families were turned away.
 - The WCCLS levy is open for renewal in November. A meeting to discuss the upcoming vote will be held on Saturday. The levy expires next year, and an increase is being requested at this time. The current levy is \$0.17 per \$1000. The requested increase will be \$0.22 per \$1000. This increase was approved by the library commission. Public campaign and opportunities to participate are in the works. Initial polling indicates that support for the levy is approximately 65% of persons likely to vote. The official vote will be held on November 3rd, 2015. One reason for the increase is that the Aloha Community Library has been added to WCCLS.

8. ADJOURNMENT: Kathleen Leatham adjourned the meeting at 6:08pm.

The next meeting will be August 13, 2015, in the Rogers Room of the Forest Grove Library.

Respectfully Submitted by Emily Lux

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Monthly Building Activity Report

July-15

2015-2016

Category	Period:	July-14	Period:	July-15
	# of Permits	Value	# of Permits	Value
Man. Home Setup				
Sing-Family New	16	3,480,049.47	3	905,497.03
SFR Addition & Alt/Repair	10	124,592.47	4	156,409.08
Mult. Fam. New/At	2	658,553.96	1	140,000.00
Group Care Facility				
Commercial New	1	134,250.00		
Commerical Addition				
Commercial Alt/Repair	5	1,423,130.00	6	478,833.00
Industrial New				
Industrial Addition				
Industrial Alt/Repair				
Gov/Pub/Inst (new/add)	1	98,269.20		
Signs	1	110.00		
Grading	1		1	
Demolitions	1			
Total	38	\$5,918,955.10	15	\$1,680,739.11

Fiscal Year-to-Date

2014-2015		2015-2016	
Permits	Value	Permits	Value
38	\$5,918,955	15	\$1,680,739

<u>Report Group</u>	<u>Fee Code</u>	<u>Fee Description</u>	<u>Amount</u>
bldg	bldpmt	Building Permit Fee	3,280.35
bldg	bldplr	Building Plan Review Fee	1,918.00
bldg	bsolar	Res. Solar Installation	146.50
bldg	flplr	F&L Safety Plan Review	83.68
bldg	mcplre	Mechanical Plan Review Equip	29.09
bldg	mcstsf	Mechanical State Surcharge Equ	59.53
bldg	mech	Mechanical Permit Fee/equip.	528.35
bldg	plmb	Plumbing Permit Fee	622.60
bldg	plstsr	Plumbing State Surcharge	74.72
bldg	stsur	State Surcharge	411.22
		Total for Group bldg	<u>7,154.04</u>
		Grand Total:	<u><u>7,154.04</u></u>

Permits Summary by Type
CITY OF CORNELIUS
For 07/01/2015 to 07/31/2015

Permit Type	Description	Permits	Square Feet	Valuation	Fees Paid	Custom Field Valuation
xcmalt	Cornelius Commercial Alteration	2	0.00	0.00	453.96	11,033.75
xcmn	Cornelius Commercial New	1	3,500.00	198,345.00	2,521.72	198,345.00
xmecrn	Cornelius Mechanical Permit Residential New	1	0.00	0.00	39.13	0.00
xmrotc	Cornelius Mechanical Residential Over the Counter	14	0.00	0.00	461.49	0.00
xplmrr	Cornelius Plumbing Permit Residential New	1	0.00	0.00	489.72	0.00
xpotc	Cornelius Plumbing Over the Counter	2	0.00	0.00	207.60	0.00
xsfadd	Cornelius Single Family Addition	1	1,740.00	137,782.20	2,334.83	201,039.00
xsfal	Cornelius Single Family Alteration	1	0.00	0.00	365.16	12,600.00
xsolar	Cornelius Residential Solar Structural Installatio	1	0.00	0.00	164.08	0.00
Grand Total		24	5,240.00	336,127.20	7,037.69	423,017.75

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Monthly Building Activity Report

August-15

2015-2016

Category	Period:	August-14	Period:	August-15
	# of Permits	Value	# of Permits	Value
Man. Home Setup				
Sing-Family New	7	\$ 1,534,081.31	19	\$ 4,353,712.00
SFR Addition & Alt/Repair	1	\$ 30,585.60	5	\$ 62,581.00
Mult. Fam. New/At				
Group Care Facility				
Commercial New				
Commerical Addition				
Commercial Alt/Repair	7	\$ 63,700.00	9	\$ 741,066.00
Industrial New				
Industrial Addition				
Industrial Alt/Repair				
Gov/Pub/Inst (new/add)				
Signs	1	\$ 3,168.84		
Grading				
Demolitions			1	
Total	16	\$1,631,536	34	\$5,157,359

Fiscal Year-to-Date

2014-2015		2015-2016	
Permits	Value	Permits	Value
54	\$7,550,491	49	\$6,838,098

CITY OF CORNELIUS
August 2015 Structural

Address	Permit Type	Subdivision	Valuation	Permit Fee	SD Tax-Sq	Metro	Plan Review	F&L Review
2430 Sablewood Ct	New SFR	Pacific Crossing 2a	364123	\$ 2,279.60	2845	\$ 436.95	\$ 1,481.74	
2505 Sweetwood Ct	New SFR	Pacific Crossing 2a	239773	\$ 1,635.85	1890	\$ 287.73	\$ 1,063.30	
1043 Andy Ave	New SFR	Pacific Crossing 2a	320102	\$ 2,053.00	2450	\$ 384.12	\$ 1,334.45	
1051 Andy Ave	New SFR	Pacific Crossing 2a	256403	\$ 1,723.40	2073	\$ 307.68	\$ 1,119.22	
2534 Carson Lp	New SFR	Casey Meadows	190770	\$ 1,383.50	1470	\$ 228.92	\$ 899.28	
2538 Carson Lp	New SFR	Casey Meadows	205632	\$ 1,460.75	1585	\$ 246.76	\$ 949.49	
2536 Carson Lp	New SFR	Casey Meadows	190770	\$ 1,383.50	1470	\$ 228.92	\$ 899.28	
2532 Carson Lp	New SFR	Casey Meadows	189869	\$ 1,378.35	1462	\$ 227.84	\$ 895.93	
2825 25th Place	New SFR	Casey West	194071	\$ 1,404.10	1572	\$ 232.89	\$ 456.34	
2751 25th Ave	New SFR	Casey West	194071	\$ 1,404.10	1572	\$ 232.89	\$ 912.67	
2833 25th Ave	New SFR	Casey West	194071	\$ 1,404.10	1572	\$ 232.89	\$ 456.32	
2827 25th Ave	New SFR	Casey West	223586	\$ 1,553.45	1829	\$ 268.30	\$ 1,009.74	
2831 25th Place	New SFR	Casey West	216125	\$ 1,517.40	1752	\$ 259.35	\$ 986.31	
2809 25th Ave	New SFR	Casey West	216125	\$ 1,517.40	1752	\$ 259.35	\$ 986.31	
2803 25th Ave	New SFR	Casey West	195986	\$ 1,409.25	1589	\$ 235.18	\$ 458.01	
2837 25th Place	New SFR	Casey West	195986	\$ 1,409.25	1589	\$ 235.18	\$ 458.01	
2844 25th Ave	New SFR	Casey West	230613	\$ 1,589.50	1896	\$ 276.74	\$ 516.59	
2815 25th Ave	New SFR	Casey West	230613	\$ 1,589.50	1896	\$ 276.74	\$ 516.59	
2508 Heather Way	New SFR	Pacific Crossing 2a	305023	\$ 1,975.75	2480	\$ 366.03	\$ 1,284.24	
	19		4353712					
2927 Raymond St	SF Alt		8500	\$ 154.70			\$ 100.56	
1816 22nd Ave	SF Add		27081	\$ 388.85			\$ 252.75	
974 Andy Ave	SF Alt		25000	\$ 361.10			\$ 234.72	
2318 Gardenia St	SF Alt		2000	\$ 146.50			\$ -	
1615 22nd Ave	SF Alt		0	\$ 27.30			\$ -	
	5		62581					
1777 Mtn View Ln	Comm Alt		163151	\$ 1,244.45			\$ 808.89	\$ 497.78
2036 Main St	Comm Alt		1200	\$ -			\$ -	\$ -
4223 Pacific Ave	Comm Alt		90070	\$ 856.80			\$ 556.92	
3012 Pacific Ave, Ste F	Comm Alt		2100	\$ 77.30			\$ 50.25	\$ 30.92

CITY OF CORNELIUS
August 2015 Structural

2043 College Way	Comm Alt		370000	\$ 2,305.35			\$ 1,498.48	
4223 Pacific Ave	Comm Alt		4500	\$ 103.10			\$ 67.02	\$ 41.24
2300 Sunset Dr	Comm Repair		27689	\$ 388.85			\$ 252.75	
1726 Cedar St	Comm Replacement		51356	\$ 605.25			\$ 393.41	
2125 College Way	Comm Alt		31000	\$ 416.60			\$ 270.79	\$ 166.64
	8		741066					
2525 A St	Demolition		0	\$ 100.00				
	1							
Totals								
	34		5157359	\$ 37,247.90	34744	\$ 5,224.46	\$ 21,170.36	\$ 736.58



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FOR CITY USE ONLY
 (Please return to City Recorder)
 The City of Forest Grove
 Recommends that license be

Granted Denied

\$100.00 Original App Fee: Paid: _____
 \$ 75.00 Change App Fee:
 \$ 35.00 Renewal or Temp App Fee
 \$ 20.25 Special Event

Acct No. 100-21-10-450050 Receipt#: _____

FOREST GROVE POLICE DEPARTMENT

LIQUOR LICENSE RECOMMENDATION

NAME OF APPLICANT/BUSINESS: FG Bowl, LLC (Applicant: Allyn Clark)

APPLICANT/BUSINESS ADDRESS: 2748 19th Place – Forest Grove

LIQUOR LICENSE TYPE: Limited On-Premises Sales

CITY BUSINESS LICENSE: Pending

TYPE OF LICENSE REQUESTED:
Application is being made for

<p>ACTION:</p> <input checked="" type="checkbox"/> Change in Application <input type="checkbox"/> New Application <input type="checkbox"/> Renewal <input type="checkbox"/> Special Event <input type="checkbox"/> Temporary <input type="checkbox"/> Other: _____	<p><input type="checkbox"/> FULL ON-PREMISES SALES: F-COM licenses are required to have dining seating. Allows the sale and service of distilled spirits, malt beverages, and wine for consumption on the licensed premises. Also allows licensees who are pre-approved to cater events off the licensed premises.</p> <p><input type="checkbox"/> BREWERY – PUBLIC HOUSE This license allows the holder to manufacture malt beverages and sell to patrons and wholesalers and allows the holder to sell malt beverages, wine and cider for consumption at the business and "to go".</p>	<p><input checked="" type="checkbox"/> LIMITED ON-PREMISES SALES: Allows the sale of malt beverages, wine and cider for consumption on the licensed premises and the sale of kegs of malt beverages for off premises consumption. Also allows licensees who are pre-approved to cater events off the licensed premises.</p> <p><input type="checkbox"/> OFF-PREMISES SALES: Allows the sale of malt beverages, wine and cider in factory sealed containers for consumption off the licensed premises and allows approved licensees to offer sample tasting of malt beverages, wine and cider.</p>
<input type="checkbox"/> Business <input checked="" type="checkbox"/> Change in Ownership <input type="checkbox"/> Greater Privilege <input type="checkbox"/> Additional Privilege <input type="checkbox"/> Other _____	<input type="checkbox"/> F – CAT Caterer <input checked="" type="checkbox"/> F – COM Commercial Establishment <input type="checkbox"/> F – PC Passenger Carrier <input type="checkbox"/> F – CLU Private Club <input type="checkbox"/> F – SEW or SEG Special Event <input type="checkbox"/> F – PL Other Public Location	<input type="checkbox"/> Brewery Public House <input type="checkbox"/> Fuel Pumps <input type="checkbox"/> Grower <input type="checkbox"/> Warehouse <input type="checkbox"/> Winery/Grower <input type="checkbox"/> Other: _____

APPLICABLE CRIMINAL/DRIVING RECORD:

NONE SUPPORTING DOCUMENTATION ATTACHED

RECOMMENDED ACTION:

FORWARD WITH APPROVAL REJECT APPLICATION (Memorandum Required)

Janie Schutz, Chief of Police
 - or Designee

 Date 8/24/15

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OREGON LIQUOR CONTROL COMMISSION
LIQUOR LICENSE APPLICATION

Application is being made for:

LICENSE TYPES

- Full On-Premises Sales (\$402.60/yr)
 - Commercial Establishment
 - Caterer
 - Passenger Carrier
 - Other Public Location
 - Private Club
- Limited On-Premises Sales (\$202.60/yr)
- Off-Premises Sales (\$100/yr)
 - with Fuel Pumps
- Brewery Public House (\$252.60)
- Winery (\$250/yr)
- Other: _____

ACTIONS

- Change Ownership
- New Outlet
- Greater Privilege
- Additional Privilege
- Other _____

P10762
L216311

90-DAY AUTHORITY

Check here if you are applying for a change of ownership at a business that has a current liquor license, or if you are applying for an Off-Premises Sales license and are requesting a 90-Day Temporary Authority

APPLYING AS:

- Limited Partnership
- Corporation
- Limited Liability Company
- Individuals

CITY AND COUNTY USE ONLY

Date application received: _____

The City Council or County Commission:

(name of city or county)

recommends that this license be:

- Granted
- Denied

By: _____ (signature) _____ (date)

Name: _____

Title: _____

OLCC USE ONLY

Application Rec'd by: _____

Date: 8-18-15

90-day authority: Yes No

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]

① FG BOWL LLC ③ _____
② _____ ④ _____

2. Trade Name (dba): Rainbow Lanes

3. Business Location: 2748 19th Pl. Forest Grove, Washington, OR 97116
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: SAME
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: 503-357-6321 N/A
(phone) (fax)

6. Is the business at this location currently licensed by OLCC? Yes No

7. If yes to whom: Rainbow Lanes Inc Type of License: Limited on prem.

8. Former Business Name: Rainbow Lanes

9. Will you have a manager? Yes No Name: Allyn Clark
(manager must fill out an Individual History form)

10. What is the local governing body where your business is located? Forest Grove
(name of city or county)

11. Contact person for this application: Allyn Clark
(name) _____
_____ Forest Grove N/A _____
(address) (city) (state) (ZIP code) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

① [Signature] member Date 8-6-15 ③ _____ Date _____
② _____ Date _____ ④ _____ Date _____



OREGON LIQUOR CONTROL COMMISSION
BUSINESS INFORMATION

Please Print or Type

Applicant Name: FG BOWL LLC Phone: 503-357-6321

Trade Name (dba): Rainbow Lanes

Business Location Address: 2748 19th Pl.

City: Forest Grove ZIP Code: 97114

DAYS AND HOURS OF OPERATION

Business Hours:	Outdoor Area Hours:	The outdoor area is used for:
Sunday <u>10AM</u> to <u>12PM</u>	Sunday _____ to _____	<input type="checkbox"/> Food service Hours: _____ to _____
Monday <u>11AM</u> to <u>12PM</u>	Monday _____ to _____	<input type="checkbox"/> Alcohol service Hours: _____ to _____
Tuesday <u>11AM</u> to <u>12PM</u>	Tuesday _____ to _____	<input type="checkbox"/> Enclosed, how _____
Wednesday <u>11AM</u> to <u>12PM</u>	Wednesday _____ to _____	The exterior area is adequately viewed and/or supervised by Service Permittees.
Thursday <u>11AM</u> to <u>12PM</u>	Thursday _____ to _____	_____ (Investigator's Initials)
Friday <u>11AM</u> to <u>2AM</u>	Friday _____ to _____	
Saturday <u>10AM</u> to <u>2AM</u>	Saturday _____ to _____	

Seasonal Variations: Yes No If yes, explain: _____

ENTERTAINMENT

Check all that apply:

<input type="checkbox"/> Live Music	<input type="checkbox"/> Karaoke
<input checked="" type="checkbox"/> Recorded Music	<input checked="" type="checkbox"/> Coin-operated Games
<input type="checkbox"/> DJ Music	<input checked="" type="checkbox"/> Video Lottery Machines
<input type="checkbox"/> Dancing	<input type="checkbox"/> Social Gaming
<input type="checkbox"/> Nude Entertainers	<input type="checkbox"/> Pool Tables
	<input type="checkbox"/> Other: _____

DAYS & HOURS OF LIVE OR DJ MUSIC

Sunday	_____	to	_____
Monday	_____	to	_____
Tuesday	_____	to	_____
Wednesday	_____	to	_____
Thursday	_____	to	_____
Friday	_____	to	_____
Saturday	_____	to	_____

SEATING COUNT

Restaurant: <u>0</u>	Outdoor: <u>0</u> <u>40</u>
Lounge: <u>0</u>	Other (explain): <u>various tables in establishment</u>
Banquet: <u>0</u>	Total Seating: <u>40</u>

OLCC USE ONLY

Investigator Verified Sealing: (Y) (N)

Investigator Initials: _____

Date: _____

I understand if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature: [Signature] member Date: 8-6-15

1-800-452-OLCC (6522)
www.oregon.gov/olcc

(rev. 12/07)

Memorandum

To: Mayor Truax and City Councilors

From: Anna D. Ruggles, CMC, City Recorder
Jesse VanderZanden, City Manager

Subject: Make Appointment to Library Commission

Date: September 14, 2015

BACKGROUND:

There currently exists a student advisory vacancy on the Library Commission, term expiring December 31, 2016.

The Council interviewed Mitchell Faris, August 10, 2015, in Work Session, and made recommendation to appoint Faris to fill the Student Advisory position, as noted in the attached resolution.

STAFF RECOMMENDATION:

Staff is recommending the City Council consider approving at the Council meeting of September 14, 2015, a resolution making the above-noted appointment. If Council desires not to make this appointment, Council may reject placing this item on the Consent Agenda and/or discuss separately.

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RESOLUTION NO. 2015-63

**RESOLUTION MAKING APPOINTMENT
TO THE CITY OF FOREST GROVE
LIBRARY COMMISSION**

WHEREAS, the City of Forest Grove has provided for a Library Commission; and

WHEREAS, Resolution Number 2006-10 provides that vacancies on City Advisory Boards, Committees, and Commissions brought about by resignation or removal shall be filled by appointment to fill the term of that seat by the City Council; and

WHEREAS, there currently exist vacancies on the Library Commission; and

WHEREAS, the City Council has received applications from citizens and students desiring to serve on the Library Commission, and subsequently interviewed citizens and students making application for service on this Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS:

Section 1. That the following person is hereby appointed to the City of Forest Grove Library Commission for the following term (new appointment noted in **CAPS** and **BOLD**):

<u>Last Name</u>	<u>First Name</u>	<u>Position</u>	<u>Term Expires</u>
FARIS	MITCHELL	STUDENT ADVISORY	DECEMBER 31, 2016

Section 2. This resolution is effective immediately upon its enactment by the City Council.

PRESENTED AND PASSED this 14th day of September, 2015.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 14th day of September, 2015.

Peter B. Truax, Mayor



STUDENT ADVISORY BOARDS, COMMITTEES

(Please complete, print and sign and/or use electronic signature)

Interview
Aug 10, 2015
5:30pm

1027 Council Street • P. O. Box 326
Forest Grove, OR 97116-0326
Fax • 503.992.3207 Office • 503.992.3235
arugales@forestgrove-or.gov

Please check the Student Advisory Board on which you would like to be considered for appointment. If interested in serving on multiple Boards, please list the order of preference (1-8). Term expires December 31st with the option to apply for reappointment for additional term(s). (Please note: The meeting dates/times are subject to change with advance notice).

- Committee for Citizen Involvement 1st Tuesday, 5:30pm
Community Forestry Commission 3rd Wednesday, 5:15pm
Economic Development Commission 1st Thursday, Noon
Historic Landmarks Board 4th Tuesday, 7:15pm
Library Commission 2nd Tuesday, 6:30pm
Parks & Recreation Commission 3rd Wednesday, 7am
Public Arts Commission 2nd Thursday, 5pm
Public Safety Advisory Commission 4th Wednesday, 7:30am
Sustainability Commission 4th Thursday, 6pm

NAME: Mitchell Faria
RESIDENCE ADDRESS: [Redacted]
MAILING ADDRESS: [Redacted] Forest Grove
SCHOOL: Forest Grove High School

HOME PHONE: [Redacted]
OTHER PHONE: [Redacted]
E-MAIL: [Redacted]
GRADE ENROLLED: 10 - freshman

Years living in Forest Grove? 16 Live in City limits? No How did you hear of this opportunity? School

How would you currently rate City's performance? [X] Excellent [] Good [] Fair [] Poor

What ideas do you have for improving "Fair" or "Poor" performance? N/A

Why are you interested in serving on the Advisory Board/Committee/Commission? I enjoy reading and community service. As a kid, I also spent a lot of time in the library participating in programs and reading.

What contributions do you feel you can/will make to the Board/Committee/Commission? Being a high school student, I will provide a unique perspective on what is important to students regarding the library.

What qualifications, skills, or experiences would you bring to the Board/Committee/Commission? I am active in an athletic leadership group and represent a population that enjoys the library.

Previous/current appointed offices: N/A

Previous/current community affiliations or extracurricular activities: National Honors Society, Interact Club

If not appointed at this time, may we keep your name on file? [X] Yes [] No

Signature Mitchell Faria Date 5/6/15
I have sufficient time to devote to this responsibility and will attend the required meetings if appointed.

(Student App 01/14)

Memorandum

To: Mayor Truax and City Councilors

From: Anna D. Ruggles, CMC, City Recorder
Jesse VanderZanden, City Manager

Subject: Make Appointment to Parks and Recreation Commission

Date: September 14, 2015

BACKGROUND:

There currently exists a vacancy on the Parks and Recreation Commission, At-Large, term expiring December 31, 2017.

The Council interviewed Brad Bafaro, August 10, 2015, in Work Session, and made recommendation to appoint Bafaro to fill the At-Large position, as noted in the attached resolution.

STAFF RECOMMENDATION:

Staff is recommending the City Council consider approving at the Council meeting of September 14, 2015, a resolution making the above-noted appointment. If Council desires not to make this appointment, Council may reject placing this item on the Consent Agenda and/or discuss separately.

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RESOLUTION NO. 2015-64

**RESOLUTION MAKING APPOINTMENT
TO THE CITY OF FOREST GROVE
PARKS AND RECREATION COMMISSION**

WHEREAS, Resolution No. 1974-733 has provided for a Parks and Recreation Commission; and

WHEREAS, Resolution Number 2006-10 provides that vacancies on City Advisory Boards, Committees, and Commissions brought about by resignation or removal shall be filled by appointment to fill the term of that seat by the City Council; and

WHEREAS, the City Council has received applications from citizens desiring to serve on the Parks and Recreation Commission, and subsequently interviewed citizens making application for service on this Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS:

Section 1. That the following person is hereby appointed to the City of Forest Grove Parks and Recreation Commission for the following term (new appointment noted in **CAPS** and **BOLD**):

<u>Last Name</u>	<u>First Name</u>	<u>District</u>	<u>Term Expires</u>
BAFARO	BRAD	AT-LARGE	DECEMBER 31, 2017

Section 2. This resolution is effective immediately upon its enactment by the City Council.

PRESENTED AND PASSED this 14th day of September, 2015.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 14th day of September 14, 2015.

Peter B. Truax, Mayor



CITIZEN ADVISORY BOARDS, COMMITTEES

(Please complete, sign and return to:)

Interview
Aug 10, 2015
5:40 pm

Forest Grove, OR 97116-0326
Fax • 503.992.3207 Office • 503.992.3235
aruggles@forestgrove-or.gov

Please check the Advisory Board on which you would like to be considered for appointment. If interested in serving on multiple Boards, please list the order of preference (1-10). Terms vary. (Please note: The meeting dates/times are subject to change with advance notice).

- Budget Committee 3-4 times in May
Committee for Citizen Involvement 1st Tuesday, 5:30pm
Community Forestry Commission 3rd Wednesday, 5:15pm
Economic Development Commission 1st Thursday, Noon
Historic Landmarks Board 4th Tuesday, 7:15pm
Library Commission 2nd Tuesday, 6:30pm
Parks & Recreation Commission 3rd Wednesday, 7am
Planning Commission 1st & 3rd Monday, 7pm
Public Arts Commission 2nd Thursday, 5pm
Public Safety Advisory Commission 4th Wednesday, 7:30am
Sustainability Commission 4th Thursday, 6pm

NAME: Brad Bafaro
RESIDENCE ADDRESS: [redacted], Forest Grove OR.
MAILING ADDRESS: Same
EMPLOYER: Forest Grove School District
HOME PHONE: [redacted]
BUSINESS PHONE: [redacted]
E-MAIL: [redacted]
OCCUPATION/PROFESSION: Special Education Director

Years living in Forest Grove? 50 years Live in City limits? yes How did you hear of this opportunity? Tom Gamble

How would you currently rate City's performance? [] Excellent [x] Good [] Fair [] Poor

What ideas do you have for improving "Fair" or "Poor" performance? Baseline performance (Strategic Plan) and develop clear measurable goals for improvement.

Why are you interested in serving on the Advisory Board/Committee/Commission? If always had a passion for park and recreation service in the City of Forest Grove.

What contributions do you feel you can/will make to the Board/Committee/Commission? Many years of experience in this area and a focus on people with disabilities.

What qualifications, skills, or experiences would you bring to the Board/Committee/Commission? Education and Experience

Previous/current appointed or elected offices: None

Previous/current community affiliations or activities: Non-profits - School - Programs - Landscape Maintenance

If not appointed at this time, may we keep your name on file? Yes No
Signature: Brad Bafaro Date: 5-20-15
I have sufficient time to devote to this responsibility and will attend the required meetings if appointed.

(App 01/14)

Memorandum

To: Mayor Truax and City Councilors

From: Anna D. Ruggles, CMC, City Recorder
Jesse VanderZanden, City Manager

Subject: Make Appointment to Sustainability Commission

Date: September 14, 2015

BACKGROUND:

There currently exists a Pacific University student advisory vacancy on the Sustainability Commission, term expiring December 31, 2016.

The Council interviewed Jacob Rose, August 10, 2015, in Work Session, and made recommendation to appoint Rose to fill the Pacific University Student Advisory position, as noted in the attached resolution.

STAFF RECOMMENDATION:

Staff is recommending the City Council consider approving at the Council meeting of September 14, 2015, a resolution making the above-noted appointment. If Council desires not to make this appointment, Council may reject placing this item on the Consent Agenda and/or discuss separately.

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RESOLUTION NO. 2015-65

**RESOLUTION MAKING APPOINTMENT
TO THE CITY OF FOREST GROVE
SUSTAINABILITY COMMISSION**

WHEREAS, Resolution No. 2013-69 has provided for a Sustainability Commission; and

WHEREAS, Resolution Number 2006-10 provides that vacancies on City Advisory Boards, Committees, and Commissions brought about by resignation or removal shall be filled by appointment to fill the term of that seat by the City Council; and

WHEREAS, there currently exists vacancies on the Sustainability Commission; and

WHEREAS, the City Council has received applications from representatives, citizens and students desiring to serve on the Sustainability Commission, and subsequently interviewed applicants for service on this Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS:

Section 1. That the following person is hereby appointed to the City of Forest Grove Sustainability Commission for the following term (new appointment noted in **CAPS** and **BOLD**)

Last Name	First Name	Position	Term Expires
ROSE	JACOB	PACIFIC UNIVERSITY STUDENT ADVISORY	DECEMBER 31, 2016

Section 2. This resolution is effective immediately upon its enactment by the City Council.

PRESENTED AND PASSED this 14th day of September, 2015.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 14th day of September, 2015.

Peter B. Truax, Mayor



RECEIVED

JUN 19 2015

by Anna Ruggles

CITIZEN ADVISORY BOARDS, COMMITTEES

Interview
Aug 10, 2015
5:20pm

(Please complete, sign and return)

Anna Ruggles, City Recorder
1924 Council Street • P. O. Box 326
Forest Grove, OR 97116-0326
Fax • 503.992.3207 Office • 503.992.3235
aruggles@forestgrove-or.gov

Please check the Advisory Board on which you would like to be considered for appointment. If interested in serving on multiple Boards, please list the order of preference (1-10). Terms vary. (Please note: The meeting dates/times are subject to change with advance notice).

- | | | | |
|--|-----------------------------------|---|---|
| <input type="checkbox"/> Budget Committee | 3-4 times in May | <input type="checkbox"/> Parks & Recreation Commission | 3 rd Wednesday, 7am |
| <input type="checkbox"/> Committee for Citizen Involvement | 1 st Tuesday, 5:30pm | <input type="checkbox"/> Planning Commission | 1 st & 3 rd Monday, 7pm |
| <input type="checkbox"/> Community Forestry Commission | 3 rd Wednesday, 5:15pm | <input type="checkbox"/> Public Arts Commission | 2 nd Thursday, 5pm |
| <input type="checkbox"/> Economic Development Commission | 1 st Thursday, Noon | <input type="checkbox"/> Public Safety Advisory Commission | 4 th Wednesday, 7:30am |
| <input type="checkbox"/> Historic Landmarks Board | 4 th Tuesday, 7:15pm | <input checked="" type="checkbox"/> Sustainability Commission | 4 th Thursday, 6pm |
| <input type="checkbox"/> Library Commission | 2 nd Tuesday, 6:30pm | | |

NAME: Jacob Rose
 RESIDENCE ADDRESS: [REDACTED]
 MAILING ADDRESS: [REDACTED]
 EMPLOYER: —

HOME PHONE: [REDACTED]
 BUSINESS PHONE: —
 E-MAIL: [REDACTED]
 OCCUPATION/PROFESSION: Pacific Univer. Student

Years living in Forest Grove? 1 Live in City limits? Yes How did you hear of this opportunity? Via Deke Gunderson

How would you currently rate City's performance? Excellent Good Fair Poor

What ideas do you have for improving "Fair" or "Poor" performance? I would like to see greater environmental awareness within the community from City efforts

Why are you interested in serving on the Advisory Board/Committee/Commission? I'm interested in being the nexus between the City's & Pacific's environmental efforts.

What contributions do you feel you can/will make to the Board/Committee/Commission? I can increase student involvement in the City's events & foster a beneficial relationship between university & City.

What qualifications, skills, or experiences would you bring to the Board/Committee/Commission? I've volunteered for Adelante Mujeres, I've interned at Clean Water Services, and ~~worked~~ I've worked for & studied under the Environmental Science Department at Pacific University.

Previous/current appointed or elected offices: —
 Previous/current community affiliations or activities: Adelante Mujeres, Clean Water Services, Students for Environmental

If not appointed at this time, may we keep your name on file? Yes No

Signature: Jacob Rose Date: 6/16/15
 I have sufficient time to devote to this responsibility and will attend the required meetings if appointed.

(App 01/14)



September 14, 2015

**PUBLIC HEARING AND FIRST READING OF AN ORDINANCE
ANNEXING INTO THE CITY OF FOREST GROVE A TRACT OF LAND LOCATED AT
1525 B STREET (PORTION OF WASHINGTON COUNTY TAX LOT 1S306CB00500)
AND WITHDRAWING THE TRACT FROM THE FOREST GROVE RURAL FIRE
PROTECTION DISTRICT (CITY FILE NO. ANX-15-00537)**

PROJECT TEAM: Daniel Riordan, Senior Planner
Jon Holan, Community Development Director
Jesse VanderZanden, City Manager

ISSUE STATEMENT: City Council consideration of an ordinance approving a property owner initiated annexation petition affecting approximately 1.55 acres of land owned by Waste Management Corporation. The affected tax lot is currently bisected by the Forest Grove city limit line. If the annexation is approved, the entire Waste Management property used for the Forest Grove Solid Waste Transfer station will be placed within the Forest Grove city limits.

Background

Waste Management Corporation operates the Forest Grove solid waste transfer station at 1525 B Street. The land area used for the station is approximately 7.4 acres in area and comprised of four tax lots as shown on the map below. The city limit line and urban growth boundary bisects tax lot 1S306CB00500 which is part of the Waste Management ownership. The area outside the City is approximately 1.55 acres. The subject area is shown on the map on the following page.

Waste Management Corporation is interested in bringing the unincorporated portion of their property into the Forest Grove city limits. Annexation of the subject property provides the opportunity for Waste Management to work with the City on issuance of building permits needed for improvements at the southern end of the solid waste transfer site as has been done in the past for improvements on property within the city limits.

The portion of tax lot 1S306CB00500 subject to annexation is also outside the urban growth boundary as noted above. The property outside the urban growth boundary is

zoned Land Extensive Industrial (MAE) by Washington County. This is a rural zoning designation as specified in Section 356 of the Washington County Community Development Code. Since the property has a rural zoning designation, the property was classified by Washington County as rural reserve in 2014. The rural reserve designation affects how the property is zoned subsequent to annexation. This is addressed in detail later in this report.

The map below shows the Waste Management ownership and the property's relationship to the city limits and urban growth boundary. The light blue area on the map represents the property owned by Waste Management Corporation. The dark red line is the city limit line and the green line represents the urban growth boundary. The property subject to annexation is shown in the hatched area. The urban growth boundary and city limit line are coincident in the area subject to annexation.

Waste Management Annexation ANX-15-00537



Overview of Annexation Application

Waste Management Corporation filed an application for annexation with the City on April 24, 2015. The annexation application was deemed complete by staff on May 29,

2015. The annexation, if approved, would bring the remaining unincorporated property (the hatched area) owned by Waste Management Corporation into the city limits. This is desirable to the applicant since Waste Management Corporation intends to expand their compressed natural gas (CNG) fueling station into the area proposed for annexation. A CNG fueling station was constructed in 2014 immediately north of the area proposed for annexation. Building permits for the existing CNG fueling station were issued by the City since the facility was constructed entirely within the City limits. Annexation would allow the City to review and approve required permits for the possible CNG fueling station expansion. Given the City's familiarity with the CNG project, annexation will provide continuity in the review process and will promote efficient delivery of public services related to issuance of building permits.

Property Description

As noted above, the property subject to this annexation is part of the Forest Grove solid waste transfer station. The entire solid waste transfer site is approximately 7.4 acres in area. The property subject to this annexation petition is approximately 1.55 acres in area. This represents approximately 21% of the solid waste transfer site.

The property proposed for annexation is paved and provides space for truck maneuvering and parking. This is shown on the map on page 5. The parking and maneuvering area is adjacent to a compressed natural gas (CNG) fueling station.

The subject property has approximately 200 feet of frontage along B Street. B Street is designated as an arterial roadway in the Forest Grove Transportation System Plan. B Street has one lane of traffic in each direction and is a primary entryway into the City from Highway 47 especially for traffic entering the City from Gaston and other points south. The posted speed limit on B Street is 35 miles per hour along the solid waste transfer station property frontage.

The B Street right-of-way is 60 feet adjacent to the Waste Management property. This right-of-way includes the street, curb and sidewalk. The standard right-of-way for an arterial street in Forest Grove is 66 feet. Right-of-way dedication is not required as part of the annexation process. Annexation of the property is not expected increase traffic on B Street.

The following section of this report describes the relationship between the solid waste transfer facility and immediate area.

Vicinity Analysis

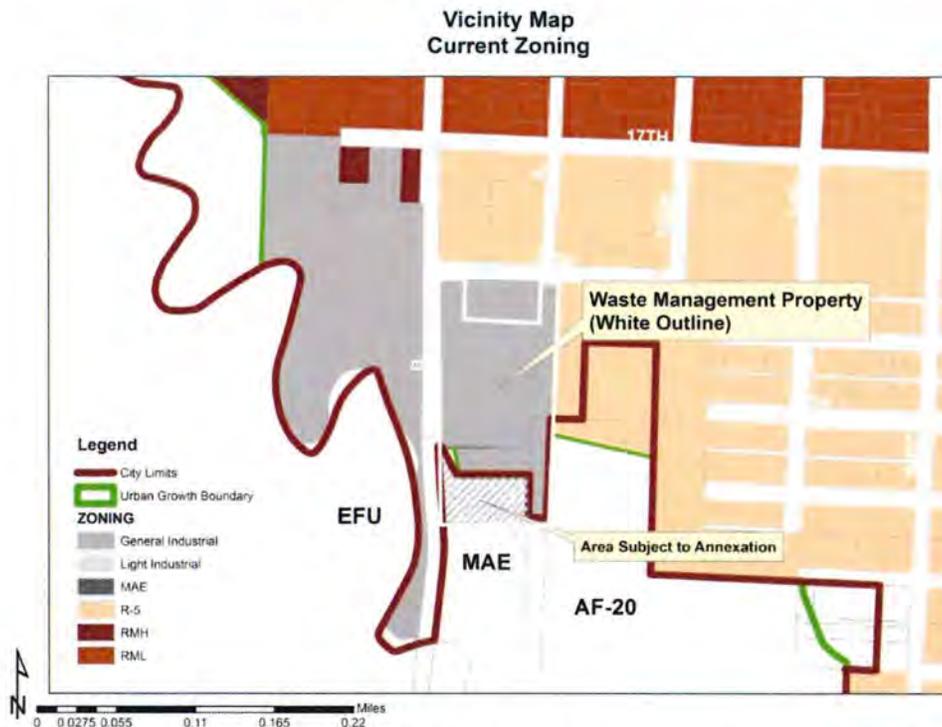
As noted above, the subject property is located adjacent to the urban growth boundary. As such, this is a transition area where agricultural land gives way to urban activities. The map on page 5 shows the land use pattern in the immediate vicinity of the solid waste transfer station. As the maps shows, land to the south of the subject area is rural reserve and includes the Gales Creek floodplain. The area to the west also includes the

Gales Creek corridor and is rural reserve outside the UGB. The area north of 16th Avenue and east of B Street is residential. The area to the east of the subject property includes the B Street trail and open space owned by Metro.

The map below shows the current zoning of the subject property and immediate vicinity. The solid waste transfer facility inside the city limits is zoned General Industrial (GI). The GI zoning designation also applies to property west of B Street within the Forest Grove City Limits. This area includes the old Light and Power building and a self-storage facility.

The property north and east of the Waste Management property is zoned Single Family Residential (R-5) south of 17th Avenue. The area between 17th Avenue and 18th Avenue is zoned Residential Multifamily Low. The area north of 18th Avenue is comprised of Residential Multifamily High, General Industrial and Town Center Support. The zoning designations are shown on the map below.

The area outside the urban growth boundary is designated by Washington County as Land Extensive Industrial (MAE) immediately adjacent to and immediately south of the subject property. The area outside the urban growth boundary west of the subject property is zoned Exclusive Farm Use. The area east of the Waste Management property outside the urban growth boundary is zoned Agricultural and Forestry with a twenty acre minimum lot size (AF-20).



The image below shows the location of the subject property and nearby vicinity. The image shows that the solid waste transfer facility is near the center of the site with truck

fueling and parking to the south. The fueling station is currently within the city limits. The truck parking area and associated circulation area is currently outside the city limits and urban growth boundary.

Waste Management Solid Waste Transfer Facility
Vicinity Map



The image also shows the agricultural and open space areas outside of the urban growth boundary. The area west of B Street inside the urban growth boundary includes a self-storage facility (the white rectangular buildings) and former Light and Power building immediately to the west of the Waste Management facility (near the letter B on the map).

The area to the north of 16th Avenue and east of the Waste Management property is primarily residential. This area is inside the urban growth boundary.

The linear corridor, with a north/south orientation, adjacent to and immediately to the west of Waste Management site is the “B Street: trail. The open space area south of the urban growth boundary is owned by Metro and is reserved for open space.

Legal Framework

State, regional and local laws and regulations govern annexation of land in the Portland Metro area. An overview of the legal framework governing annexation is provided below. In general, annexation must comply with Oregon Revised Statutes (ORS)

Chapter 222 (City Boundary Changes), the Metro Code (Chapter 3.09) and the Forest Grove Development Code (10.2.150).

Oregon Revised Statutes (ORS) Chapter 222

ORS Chapter 222 establishes procedures and requirements for certain types of annexations and withdrawal of territory from taxing districts. Under ORS 222, land considered for annexation must be contiguous with land currently in the city limits. The subject property meets this qualification since it's adjacent to property within the city.

Also under ORS 222, an annexation may be initiated by the City Council on its own accord or by petition to the City Council by the owners of real property in the territory to be annexed. In this case, the property owner (Waste Management Corporation) submitted an annexation petition on April 24, 2015 requesting annexation into the City. The City's Charter does not require the City Council to submit a proposal for annexation of territory to the voters of the city for their approval or rejection.

Metro Code Chapter 3.09 (Local Government Boundary Changes)

The Oregon Legislature (through ORS 268.347 to ORS 268.354) granted authority to Metro to establish criteria for annexations which must be used by cities within the Metro boundary including Forest Grove. The applicable criteria are contained in Chapter 3.09 of the Metro Code. The criteria require compliance with applicable provisions of adopted annexation agreements and local comprehensive plans. Metro Code Chapter 3.09 also requires that findings be adopted by the City Council demonstrating that the proposed annexation promotes the timely, orderly and economic provision of public facilities and services and whether the annexation will affect the quality and quantity of urban services. This is addressed in detail later in this report.

Forest Grove Development Code

Forest Grove Development Code Section 10.2.150 also establishes local procedures for annexation. This section requires that City annexations be reviewed according to the procedures in Metro Code Chapter 3.09 and applicable State of Oregon Annexation Requirements (ORS Chapter 222).

Forest Grove Development Code Section 10.2.160 addresses the assignment of a City of Forest Grove zoning designation to property annexed into the City of Forest Grove. This section stipulates that the zoning of property meet the review criteria in Development Code Section 10.2.770. The criteria are listed below for reference. For the reasons explained in the next section of this report (Assignment of Zoning Designation) a City zoning designation cannot be applied to the subject property subsequent to annexation because it is in Rural Reserve.

City of Forest Grove Zoning Criteria

- A. The zone change is consistent with the Comprehensive Plan Map. When the Comprehensive Plan has more than one implementing zone as shown on the corresponding Table in Article 3, it must be shown that the proposed zone is the most appropriate, taking into consideration the purpose of each zone and the zoning pattern of surrounding land;
- B. The zone change is consistent with relevant goals and policies of the Comprehensive Plan, as identified by the Director;
- C. The site is suitable for the proposed zone and there is a lack of appropriately designated alternative sites within the vicinity. The size of the vicinity shall be determined on a case-by-case basis since the impacts of a proposed zone and its potential uses vary. The factors to be considered in determining suitability are parcel size and location;
- D. The zone change is consistent with the adopted Transportation System Plan. Development allowed by the zone change will not substantially impact the functional classification or operation of transportation facilities, or reduce the level of service of transportation facilities below the minimum acceptable level identified in the Transportation System Plan. To ensure proper review and mitigation, a traffic impact study may be required for the proposed change if it may impact transportation facilities;
- E. Public facilities and services for water supply, sanitary waste disposal, stormwater, disposal, and police and fire protection are capable of supporting the uses allowed by the zone. Adequacy of services is based on the projected service demands of the site and the ability of the public services to accommodate those demands; and
- F. The establishment of a zone district is not subject to the meeting of conditions.

The Planning Commission held a public hearing regarding the zoning of property and review criteria on July 27, 2015. The proposed zoning of the subject property proposed for annexation is discussed in the next section.

Assignment of Zoning Designation

Ordinarily, the Planning Commission is asked to recommend a City of Forest Grove zoning designation for property annexed into the City. In this case, assignment of a City zoning designation is complicated by the fact that the unincorporated portion of the site has a rural zoning designation. To complicate matters further, the property outside the urban growth boundary was designated rural reserve by Washington County in partnership with Metro in 2014.

Staff contacted Metro about this annexation request and the current rural reserve designation. Metro was contacted for guidance since Metro is the agency responsible for coordinating annexations within the Metro boundary. Metro staff advised the City that the rural reserve designation does not preclude annexation of the property into the city limits. The rural reserve designation, however, precludes bringing the unincorporated property into the urban growth boundary and assigning it a City zoning designation. This means the Washington County zoning designation must remain after the property is annexed into the City. This is explained further below.

It's not unprecedented for the City to annex property that lies in and out of the urban growth boundary. There are several examples of this along the Gales Creek corridor and along Council Creek. In every case, the Washington County zoning designation was retained outside of the urban growth boundary even though the entire parcel is within the city limits. State law (ORS 215.130(2)(a)) allows for the continuation of county zoning within city limits. ORS 215.130(2)(a) states:

“215.130(2): An ordinance designed to carry out a county comprehensive plan and a county comprehensive plan shall apply to:

(a) The area within the county also within the boundaries of a city as a result of extending the boundaries of the city or creating a new city unless, or until the city has by ordinance or other provision provided otherwise.”

Therefore, under ORS 215.130(2), unless the City specifically takes action to amend the zoning map to apply a City zoning designation to the subject property, the County's designation remains after annexation. Since the subject property to be annexed is outside the urban growth boundary, the recommendation is to retain the County zoning designation of Land Extensive Industrial (MAE) after annexation as allowed by ORS 215.130(2).

Under the approach to zoning described above, the City would implement the MAE zoning provisions. This approach to zoning land in the City, but outside the urban growth boundary, is consistent with prior agreement between the City of Forest Grove and Washington County regarding planning and zoning responsibilities.

The next section of this report provides an overview of the Washington County Land Extensive Industrial (MAE) zoning designation and provides a comparison with the City's General Industrial (GI) zoning designation. The CNG expansion could be considered under the MAE zone similar to the GI zone within the City since the CNG station is an ancillary use to the solid waste transfer facility.

Overview of Land Extensive Industrial (MAE) zoning designation

The intent of the MAE zone is to provide for land extensive industrial uses in the rural areas of Washington County. The primary purpose is to provide land for farm and forest

related uses need to support the natural resource base and consistent with the rural character and level of services. Although the purpose of the MAE zone differs from the City's General Industrial zone the uses allowed are similar. The MAE zone provisions are summarized below.

The MAE zone allows for a variety of land uses under a Type I (Administrative) or Type II (Limited Land Use Decision) approval process including:

- Caretaker or dormitory residence in conjunction with a permitted use;
- Facility and communication towers;
- Batch plant;
- Contractor's establishment;
- Research and development;
- Production, processing, assembling, packaging or treatment of materials when the use meets the intent and purpose of the district;
- Public utility;
- Exploration of geothermal resources; and
- Restaurant or cafeteria facilities for employees in a new building when in conjunction with a permitted use;

The MAE zone allows for a variety of land use under a Type III (Quasi-Judicial) approval process including:

- Auto wrecking yard;
- Solid Waste Disposal or Transfer Site;
- Communication towers;
- Airport; and
- Race track, drag strip

For comparison the City's General Industrial (GI) zone generally allows for:

- Limited residential (caretaker residence);
- Schools (comprising no more than 20% of the floor space of a building owned by a governmental agency);
- Eating and drinking establishments up to 3,000 square feet provided it primarily serves the needs of the people living or working in the industrial area;
- General retail sales up to 3,000 square feet provided it primarily serves the needs of the people living or working in the industrial area;
- Office up to 20% of the total floor area of an allowed use;
- Industrial services
 - Repair of machinery and equipment
 - Salvage or wrecking of heavy machinery
 - Towing and vehicle storage
 - Laundry, dry cleaning and carpet cleaning plants;

- Manufacturing and production
 - Manufacturing, processing and assembling of semi-finished products from raw materials
 - Food processing
 - Breweries, distilleries, and wineries
 - Woodworking
 - Manufacturing and production of large-scale machinery;
- Call Centers;
- Railroad yards;
- Research and development;
- Warehouse/freight movement;
- Waste related as a conditional use;
- Wholesale Sales up to 5,000 square feet or 40% of the total floor area of an allowed use; and
- Wireless Communication Facilities

The City's General Industrial zone does not allow for airport or race track activities allowed in the MAE zone.

Development standards between the MAE and GI zones vary. In some cases the City's GI zone is more restrictive than the County's MAE zone. In other cases the GI zone is less restrictive. The table below shows the variation in standards between the two zones.

Industrial Development Standards

Standard	MAE	GI
Minimum Lot Size	2 acres to 5 acres	10,000 square feet
Minimum Lot Width	200 feet (average)	100 feet
Minimum Lot Depth	200 feet	None
Maximum Building Height	65 feet	None (subject to Building Code and approved by Fire Department)
Building Setbacks	40 foot front yard 20 feet side and rear yard or required side and rear yard of abutting zone	None

The next section of this report identifies the review criteria applicable to annexations and describes how the proposal complies with the criteria. This provides the factual basis for making a determination to approve or deny the annexation petition.

Annexation Criteria for Decision Making, Findings and Conclusions

Annexation of land into the City must address the following criteria as applicable. Findings demonstrating how the criteria are met are also provided below.

1. Consistency with applicable provisions in ORS 195 agreements or ORS 195 annexation plans;
2. Consistency with applicable provisions of urban planning agreements between the annexing entity and a necessary party;
3. Consistency with applicable standards for boundary changes contained in Comprehensive land use plans and public facility plans;
4. Consistency with applicable standards for boundary changes contained in the Metro Regional Framework Plan or any functional plans;
5. Whether the proposed boundary change will promote or not interfere with the timely, orderly and economic provision of public facilities and services; and
6. Consistency with criteria for a boundary change under state and local law.

Finding - Annexation Criteria #1: The City has not adopted an ORS 195 annexation agreement or annexation plan. Therefore, this criterion is deemed to be not applicable.

Finding - Annexation Criteria #2: The City of Forest Grove and Washington County entered into an urban planning area agreement (UPAA) in 1988. The UPAA does not specifically address the annexation of the subject property since it is located outside of the urban growth boundary. Therefore, the UPAA is not applicable to this annexation petition.

Finding - Annexation Criteria #3: Boundary changes are address in the Urbanization Element of the Forest Grove Comprehensive Plan (Chapter 10). Annexation to the City is required for the extension of sanitary sewer service required for development (Urbanization Policy 5). In addition, urbanization Policy 12 promotes the efficient delivery of public services through annexation. Annexation of the subject territory promotes the efficient delivery of public services including police and to some extent fire protection. Annexation of the subject territory also allows the property to work directly with the City regarding land use and building permit approval for the entire site used for the solid waste transfer station. Without annexation, all building permits for the 1.5 acres site outside the city limits would be handled through Washington County in Hillsboro.

Related to the requirement for consistency with applicable standards for boundary changes contained in the Comprehensive Plan, Urbanization Policy 13 states the City will avoid approving annexations that create unincorporated islands within the Forest Grove planning area. This annexation will not result in the creation of an unincorporated island.

Finding - Annexation Criteria #4: The subject property is currently bisected by the city limit line. This annexation petition is consistent with Metro Code provision allowing for annexation of property bisected by a city limit line (Metro Code Section 3.09.045(E)):

“A city may not annex territory that lies outside the UGB, except it may annex a lot or parcel that lies partially within and partially outside the UGB”.

Finding - Annexation Criteria #5: This annexation will promote and will not interfere with the timely, orderly and economic provision of public facilities and services. As stated above, the annexation will clarify responsibilities for services including police and fire protection. The annexation will also consolidate the entire solid waste transfer facility under the City’s jurisdiction which by its very nature improves the efficiency of providing public service such as issuing building permits.

Finding - Annexation Criteria #6: The annexation is consistent with the criteria for a boundary change under state and local law as described more fully below. This includes local and regional planning requirements such as State Land Use Goal 14 (Urbanization), the Metro Regional Framework Plan and the Forest Grove Comprehensive Plan. Findings related to these requirements are presented below.

Finding - State Land Use Goal 14 (Urbanization)

State Land Use Planning Goal 14 (Urbanization) requires communities, “provide for an orderly and efficient transition from rural to urban land use.” Furthermore, this goal specifies that conversion of urbanizable land to urban uses be based on: orderly, economic provision of public facilities; availability of sufficient land for various uses; LCDC goals or the acknowledged comprehensive plan; and encouragement of development within urban areas before conversion of urbanizable areas.

This annexation is consistent with State Land Use Goal 14 which promotes an orderly and efficient transition of land for urban use. The Solid Waste Transfer facility serves the west metro region including the urbanized area of Forest Grove. Given that this site is already being used as part of the transfer station, it is consistent with the intent of Goal 14 to encourage development on the subject property which is already committed to land use activities serving urban needs.

Finding - Metro Regional Framework Plan

The Metro Regional Framework Plan serves as the comprehensive plan for Metro. The Framework Plan addresses land use matters including growth management, urban/rural transition, urban design and adjustments to the urban growth boundary. It is the policy of the Metro Council to provide a clear distinction between urban and rural lands (Framework Policy 1.6.1(b)). The proposed annexation is already a functional part of the solid waste transfer station and will not result in the conversion of rural land for urban use. Therefore, the proposed annexation is consistent with the intent of Framework Policy 1.6.1(b).

It is also the policy of the Metro Council to protect agricultural and forest resource lands (Framework Policy 1.12). Although the subject property is located outside of the urban growth boundary, it is not being used for agricultural or forest related activities. The site is an integral part of the Forest Grove Solid Waste Transfer Facility. Therefore, annexation of the subject property is also consistent with Framework Policy 1.12.

In addition the Framework Plan, the Metro Code (Section 3.09) contains specific criteria related to boundary changes. The following section of this report addresses the criteria contained in Metro Code Section 3.09.

Metro Code (Section 3.09) Annexation Criteria

Metro Code Criteria 1: The annexation must be consistent with adopted urban service agreements and annexation plans under ORS 195.

Finding: The City has not adopted a formal annexation agreement under Oregon Revised Statutes Chapter 195. In addition, the Urban Planning Area Agreement (UPAA) does not address the subject area since it is located outside the urban growth boundary. As a result, this criterion is not applicable to the proposed annexation. The proposed annexation is however, consistent with the intent of the criterion which is to promote efficient delivery of public services including identifying responsibilities for service delivery among service providers. Annexing the subject territory will bring entire solid waste transfer facility into the City. This will result in the City providing services such as police and fire protection and issuance of future building permits. Delivery of such public services by one jurisdiction improves the overall efficiency of providing services to the site.

Metro Code Criteria 2: The annexation must be consistent with Comprehensive Plan provisions applicable to annexation.

Finding: The Forest Grove Comprehensive Plan contains several policies applicable to annexation as identified below. The policies applicable to this annexation request include:

- Urbanization Policy 12: Promote the efficient delivery of public services through annexation of land into the City of Forest Grove; and
- Urbanization Policy 13: The City will avoid approving annexations that create unincorporated islands within the Forest Grove planning area.

As noted above, annexation of the subject territory will promote the efficient delivery of public services including police and fire protection and issuance of building permits.

The subject property is currently bisected by the Forest Grove City limit line. Annexation will bring the entire parcel into the city limits. This action will not result in the creation of any unincorporated islands within the forest Grove planning area.

Metro Code Criteria 3: The annexation is consistent with applicable standards for boundary changes contained in the Metro Regional Framework Plan or any functional plans.

Finding: Annexation of the subject territory is consistent with applicable standards for boundary changes contained in the Metro Regional Framework Plan or any functional plans. As noted above, the subject territory is bisected by the urban growth boundary. The Metro Urban Growth Management Functional Plan, Section 3.09.045(E),

specifically allows the annexation of territory bisected by the urban growth boundary. Therefore this annexation is consistent with the applicable standards for boundary changes contained in the Metro Regional Framework Plan or any functional plans.

Metro Code Criteria 4: The annexation is consistent with applicable provisions contained in adopted public facility plans.

Finding: Staff finds this annexation is consistent with applicable provisions contained in adopted public facility plans. The area adjacent to the subject property is currently served by Forest Grove utilities including water, storm sewer, sanitary sewer and electricity. In addition, the subject territory is located within the boundaries of Clean Water Services. A 12" PVC and 24" corrugated steel pipe (CSP) storm water conveyance line are located adjacent to the subject property. An 8" CSP sanitary sewer line is located within the B Street right-of-way approximately 215 feet north of the subject property.

Negligible increased service demand is expected to result from this annexation. The property owner (Waste Management Corporation) intends to expand the existing CNG fueling station onto the subject property.

Metro Criteria 5: Promote the timely, orderly, and economic provision of public facilities and services.

Finding: As noted throughout this report, annexation of the subject property promotes the timely, orderly and economic provision of public facilities and services by bringing the entire solid waste transfer facility into the City. Annexation provides the opportunity for the applicant to work directly with the City on the issuance of building permits related to improvement on the subject property. Annexation also clarifies primary responsibility for the provision of police and fire protection.

Metro Criteria 6: Affect the quality and quantity of urban services.

Finding: The annexation will not affect the quality and quantity of urban services provided by the City. Increased service demand resulting from this annexation is expected to be negligible. The site is currently being used for truck parking and maneuvering. The applicant intends to expand the existing CNG fueling station onto the subject property.

Metro Criteria 7: Eliminate or avoid unnecessary duplication of facilities and services.

Finding: The subject property is bisected by the city limit line and urban growth boundary. Bringing the entire property into the City will clarify responsibilities for public service delivery including police and fire protection and building permit issuance. Annexation of the subject property will avoid unnecessary duplication of services to the site. Public services provided to or near the site include:

Public Sanitary Sewer

The solid waste transfer station is provided with sanitary sewer service through an existing 8" sewer line. This line terminates approximately 221 feet north of the property proposed for annexation. Extension of the existing sanitary sewer line is not necessary to serve the proposed expansion of the CNG fueling station. The entire property is within the Clean Water Services boundary. As such, any future extension of sanitary sewer service must comply with applicable Clean Water Services and City regulations.

Water

An existing water 8 inch water line is present within the B Street right-of-way serving the northern portion of the solid waste transfer station. A 2 inch line is adjacent to the property subject to annexation.

Development of the subject site is not expected to increase daily water use beyond what is ordinarily used for the solid waste transfer facility. This conclusion is based on the applicant's desire to expand the CNG fueling station. The City of Forest Grove Water Master Plan Update (August 2010) shows that the City has sufficient raw water supply and rights to meet demand over the planning period (through 2050)¹ to accommodate development. The Water Master Plan Update also indicates that additional water storage to meet the needs of the lower water pressure zone (including the subject site) is not needed until late in the 20-year planning horizon.²

Public Stormwater Facilities

Clean Water Services is responsible for regulating stormwater management in Washington County including within the city limits. Data from Clean Water Services shows a 12 inch to 24 inch stormwater sewer line within the B Street right-of-way adjacent to the subject property. Under the City's Intergovernmental Agreement with Clean Water Services, adequate stormwater facilities meeting standards will be required as part of any development approval.

Police

The entire solid waste transfer facility, except for the 1.55 acre subject property, is within the Forest Grove city limits. As such, the Forest Grove Police Department is the primary provider of police services for the subject property. Technically speaking, the Washington County Sheriff Office is the primary provider of police services for the 1.55 acre unincorporated area. In reality, the Forest Grove Police Department would be the first responder in any event. Annexation of the subject property will clarify police responsibilities. The Forest Grove Police Department has sufficient resources to serve the subject property adjacent to the Forest Grove city limits. The Forest Grove Police

¹ City of Forest Grove, Water Master Plan Update (August 2010), Executive Summary – Page ES-6.

² City of Forest Grove, Water Master Plan Update (August 2010), Executive Summary – Page ES-9

Department employs 19 patrol officers. The increased service demand resulting from this annexation is expected to be negligible on Police Department resources.

Fire

Forest Grove Fire and Rescue operates with 18 paid fire fighters. The City provides four to eight paid personnel on duty at all times at the Ash Street station. On all alarms, the volunteers respond to the station along with off duty paid personnel. All personnel are provided with tone activated radio receivers. Night responses are augmented by the resident volunteers at the station. The Fire Department is equipped with 5 engines; 2 tankers; 5 pick-ups; a 104' platform truck; a command vehicle; a utility vehicle; and one rescue unit. Forest Grove Fire and Rescue has sufficient resources to serve the 1.55 acre area if annexed into the City.

Annexation of the subject property may result in loss of revenue to the Forest Grove Rural Fire Protection District. Based on current property tax information available from the Washington County Office of Assessment and Taxation, the amount of property tax revenue generated from the land subject for general operations of the Forest Grove Rural Fire Protection District is approximately \$143.00 for tax year 2014-2015.

Transportation

Transit: The subject property is located approximately 2,100 feet (0.40 miles) from the Tri Met Line 57 terminus station located at B Street and 19th Avenue.

Bicycle: B Street does not have bicycle lanes adjacent to the subject property. The property is adjacent to the existing B Street trail.

Streets: The property is adjacent to B Street. B Street is designated as an Arterial street in the Transportation System Plan in this area of the City. According to information contained in Forest Grove Transportation System Plan, B Street in this part of the City serves approximately 4,300 vehicles per day on average. A sidewalk exists adjacent to the subject property. B Street is sufficient in terms of serving additional traffic, if any, resulting from annexation and subsequent improvement of the site.

Light & Power: The subject property is within the Forest Grove Light and Power service area. Expansion of the CNG fueling station may have a slight impact on electricity demand for powering pumps or lighting.

Forest Grove School District: The subject property is located within the Forest Grove School District attendance boundary. The subject property is zoned for industrial purposes and annexation of the property will have no impact on school district attendance.

FISCAL IMPACT

According to the Washington County Office of Assessment and Taxation, the taxable assessed value of the property subject to annexation is \$111,960. Property taxes for the 2014/2015 tax year are estimated to be approximately \$1,500. Annexation of the subject property will not affect property tax collections provided to taxing districts except for the Forest Grove Rural Fire Protection District as noted above and explained below.

Annexation of the subject property may result in loss of revenue to the Forest Grove Rural Fire Protection District. Based on current property tax information available from the Washington County Office of Assessment and Taxation, the amount of property tax revenue generated from the land subject for general operations of the Forest Grove Rural Fire Protection District is approximately \$143.00 for tax year 2014-2015.

Annexation of the subject property will result in additional property tax revenue for the City of Forest Grove. Staff estimates the City will receive a minimum of \$660 in upcoming property tax revenue annually subsequent to the annexation. This revenue would be allocated as follows \$179.14 for the local option levy and \$443.36 from the City's permanent property tax rate of \$3.96 per \$1,000 of taxable assessed value.

RECOMMENDATION

Staff recommends that City Council:

1. Adopt the attached ordinance approving ANX-15-00537 annexing approximately 1.55 acres of land adjacent to 1525 B Street (Washington County Tax Lot 1S306CB00500); and
2. Retain the Washington County zoning designation of Land Extensive Development (MAE) after annexation of the subject property.

ATTACHMENTS

- A. Ordinance annexing into the City of Forest Grove a tract of land located at 1525 B Street (Portion of Washington County Tax Lot 1S306CB00500) and withdrawing the tract from the Forest Grove Rural Fire Protection District.

NOTICE OF PUBLIC HEARING CITY OF FOREST GROVE CITY COUNCIL

NOTICE IS HEREBY GIVEN that the Forest Grove City Council will hold a Public Hearing on **Monday, September 14, 2015, at 7:00 p.m.** or thereafter, in the Community Auditorium, 1915 Main Street, Forest Grove, to consider adopting an ordinance approving a property owner initiated annexation petition affecting a 1.55 acre tract land adjacent to 1525 B Street (Washington County Assessor Map and Tax Lot Number 1S306CB00500). The annexation petitioner is Waste Management Corporation. The tract of land subject to the annexation petition is owned by Waste Management Corporation and is currently being used for truck parking associated with the solid waste transfer facility on B Street.

Annexation of the subject property will be reviewed by the City Council based on the following criteria as applicable:

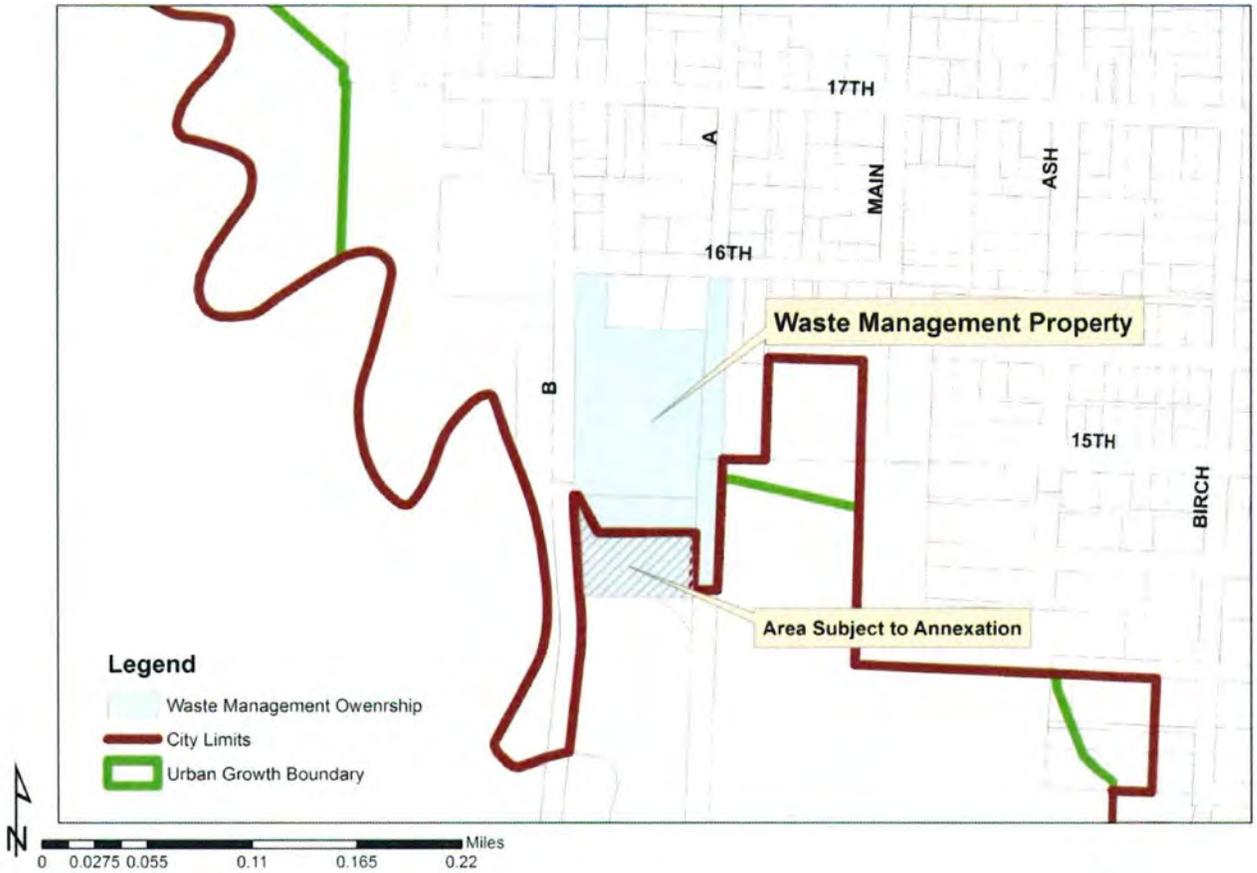
1. Consistency with applicable provisions in ORS 195 agreements or ORS 195 annexation plans;
2. Consistency with applicable provisions of urban planning agreements between the City of Forest Grove and Washington County;
3. Consistency with applicable standards for boundary changes contained in Comprehensive land use plans and public facility plans;
4. Consistency with applicable standards for boundary changes contained in the Metro Regional Framework Plan or any functional plans;
5. Whether the proposed boundary change will promote or not interfere with the timely, orderly and economic provision of public facilities and services; and
6. Consistency with criteria for a boundary change under state and local law.

This hearing is open to the public and interested parties are encouraged to attend. A copy of the report and proposed ordinance are available for inspection before the hearing at the City Recorder's Office or by visiting the City's website at www.forestgrove-or.gov. Written comments or testimony may be submitted at the hearing or e-mailed to City Recorder's Office, aruggles@forestgrove-or.gov, or sent to P. O. Box 326, 1924 Council Street, Forest Grove, OR 97116, prior to the hearing. For further information pertaining to this proposal, please contact Community Development Department 1924 Council Street, 503.992.3224, 9am-5pm, Daniel Riordan, Senior Planner (503) 992-3226, driordan@forestgrove-or.gov.

Anna D. Ruggles, CMC, City Recorder

Published: Wednesday, September 9, 2015, Forest Grove NewsTimes

Waste Management Annexation
ANX-15-00537





ORDINANCE NO. 2015-08

**ORDINANCE ANNEXING A TRACT OF LAND LOCATED AT 1525 B STREET
(PORTION OF WASHINGTON COUNTY TAX LOT 1S306CB00500) INTO THE CITY
LIMIT OF FOREST GROVE AND WITHDRAWING THE TRACT FROM THE FOREST
GROVE RURAL FIRE PROTECTION DISTRICT
FILE NO. ANX-15-00537**

FOREST GROVE MAKES THE FOLLOWING FINDINGS:

WHEREAS, the City Council dispenses with submitting the question of the proposed annexation to the electors of the City for their approval or rejection; and

WHEREAS, Oregon Revised Statutes Chapter 222.120 and Chapter 222.125 establishes procedures for property owner initiated annexation petitions without election by city electors; and

WHEREAS, the entire property subject to annexation is owned by Waste Management Corporation; and

WHEREAS, the property is used for industrial purposes and no electors reside on the subject property; and

WHEREAS, Waste Management Corporation consents to the annexation as required by ORS 222.125; and

WHEREAS, the annexation petition complies with the requirements of Metro Chapter 3.09; and

WHEREAS, the City Council held a duly-noticed Public Hearing on September 14 and September 28, 2015, on the annexation petition consistent with Article 1 of The Forest Grove Development Code (Type III Process – Quasi-Judicial Land Use Decision); and

WHEREAS, the tract of land is within the boundary of the Forest Grove Rural Fire Protection District; and

WHEREAS, the Forest Grove Rural Fire Protection district was notified of the annexation proposal and City Council public hearing as a necessary party under Metro Code Chapter 3.09; and

WHEREAS, the City conducted public hearings, and mailed, published, and posted notice of the public hearings as required by Article 1 of the Forest Grove Development Code; and

WHEREAS, a report was report as required by law, and the City Council having considered the report and the testimony at the public hearing, does hereby favor the annexation of the subject tract of land and withdrawal from the districts based on the findings and conclusions attached hereto as Exhibit C; and

WHEREAS, the annexation and withdrawals are not contested by any necessary party.

NOW, THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:

Section 1. The tracts of land, described in Exhibit A and depicted on the attached maps (Exhibit B), is declared to be annexed to the City of Forest Grove, Oregon.

Section 2. The tract of land annexed by this Ordinance and described in Section 1 are withdrawn from the Forest Grove Rural Fire Protection District.

Section 3. The findings and conclusions contained in the staff report dated September 14, 2015, are incorporated by reference and hereby adopted. The City Recorder shall immediately file a certified copy of this Ordinance with Metro and other agencies required by Metro Code Chapter 3.09.050(g) and ORS 222.005. The annexation and withdrawals shall become effective upon filing of the annexation records with the Oregon Secretary of State as provided by ORS 222.180.

Section 4. This ordinance shall be effective 30 days following its enactment by the City Council.

PRESENTED AND PASSED the first reading the 14th day of September 2015.

PASSED the second reading the 28th day of September 2015.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 28th day of September 2015

Peter B. Truax, Mayor



VANCOUVER OFFICE

1325 SE Tech Center Drive, Suite 140 • Vancouver, WA 98683
360.695.3411 • info@mackaysposito.com



12/06/13

GAH

LEGAL DESCRIPTION
Adjustment to City Fill Limit
Forest Grove, Oregon

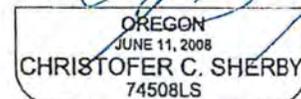
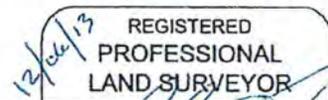
Real property situated in the City of Forest Grove, Washington County, Oregon, being a portion of that tract of land conveyed to Metropolitan Disposal and Recycling Corporation by warranty deed recorded February 24th, 1998, in Document No. 99004954, Washington County book of records, said tract being in the Harvey Clark DLC #37 and lying in the Northwest Quarter of the Southwest Quarter of Section 6, Township 1 South, Range 3 West of the Willamette Meridian, described as follows:

Commencing at the northwest corner of said DLC #37, being a 2" Brass Disk in monument box; thence along the westerly line of said DLC #37 South 01° 17' 42" West 3237.37 feet; thence leaving said westerly line South 87°53'21" East 67.74 feet to a point on the easterly right of way line of B Street (Tualatin Valley Highway, as described in said deed document), being a distant of 30 feet from, measured at right angles to, the centerline of said B Street, also being the southwest corner of said tract of land described as Parcel IV of said deed document and the **Point of Beginning**; thence northerly along said easterly right of way line the following 3 courses:

Thence North 6°32'59" West 39.95 feet to the point of curvature with a 1403.35 foot radius curve; thence along said curve to the right, through a central angle of 7°25'00", an arc distance of 181.66 feet (the chord which bears North 2°50'29" West, a distance of 181.53 feet); thence North 0°52'01" East 33.77 feet;

Thence leaving said easterly right of way line South 88°38'51" East 6.48 feet, thence South 28°44'01" East 116.96 feet; thence South 89°42'00"E 279.86 feet to a point on the easterly line of said deed document 99004954; thence along said easterly line South 02°22'12" West 158.67 feet to the southeast corner of said deed document; thence North 87°53'21" West 323.64 feet along the southerly line of said deed document to said easterly right of way line and said **Point of Beginning**.

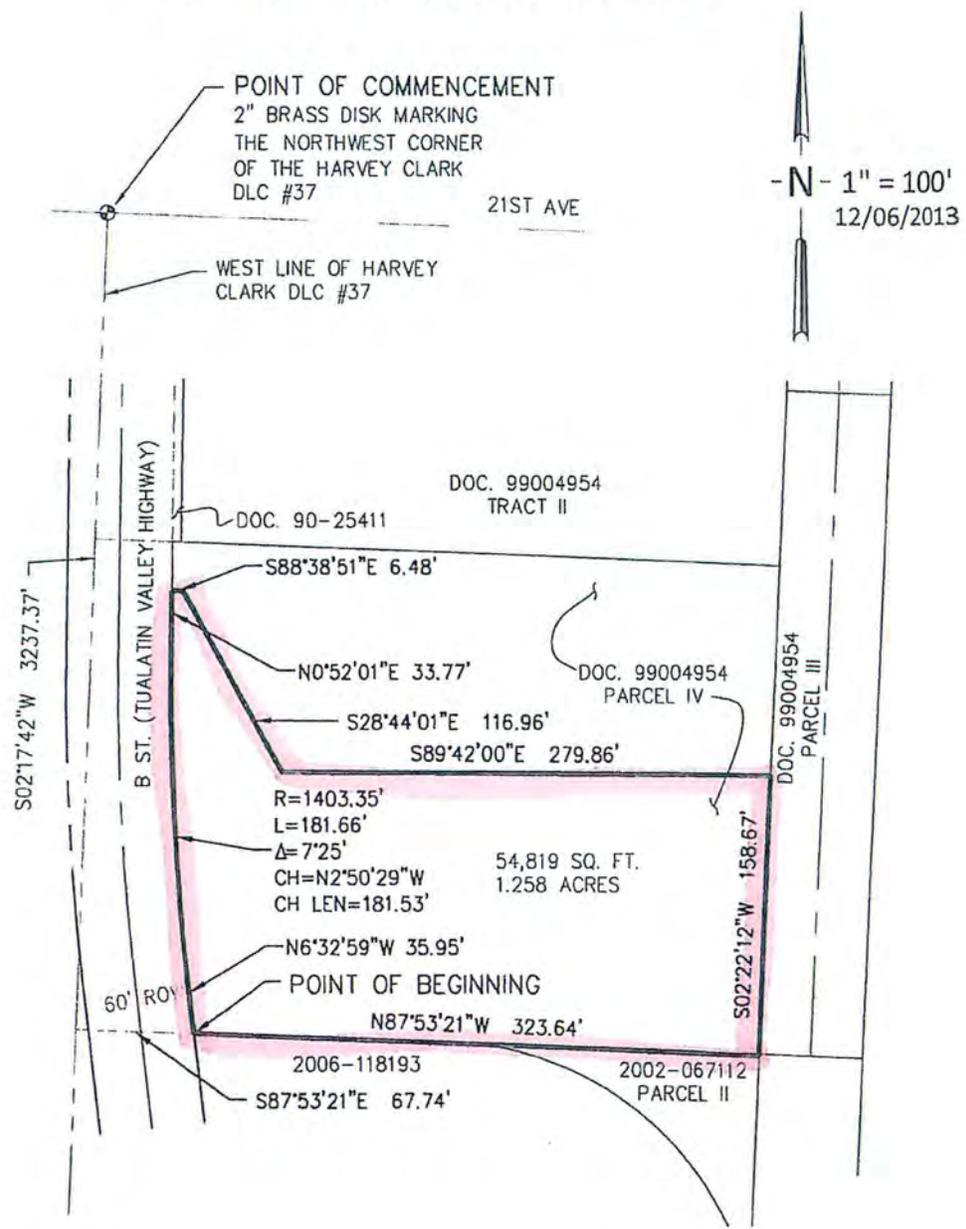
Containing 54,819 square feet or approximately 1.258 acres.



RECEIVED
 APR 29 2013
 CITY OF FOREST GROVE

**SKETCH TO ACCOMPANY LEGAL DESCRIPTION FOR
 ADJUSTEMENT TO CITY FILL LIMITS**

FOREST GROVE, WASHINGTON COUNTY, OREGON



N
 - 1" = 100'
 12/06/2013

Mackay Sposito

1325 SE TECH CENTER DRIVE, SUITE 140
 VANCOUVER, WA 98683
 VANCOUVER: (360) 695-3411
 PORTLAND: (503) 289-6726
 FAX (360) 695-0833

ENERGY PUBLIC WORKS LAND DEVELOPMENT
 www.mackaysposito.com

Exhibit B



September 14, 2015

**REPORT ON RESOLUTION ADOPTING THE CITY OF FOREST GROVE
EMPLOYEE HANDBOOK AND REPLACING PREVIOUS VERSION**

Project Team: **Jesse VanderZanden, City Manager**
 Brenda Camilli, Human Resources Manager

Issue Statement: The employment policies for the City of Forest Grove, the Employee Handbook, has been reviewed and revised for compliance with legislation, policy, and best practices. The City Council must adopt by resolution personnel-related policies following discussion.

Background: The current Employee Handbook was adopted by City Council April 26, 2010. Under the direction of the City Manager, the Human Resources Manager has reviewed and revised the current employment policies set forth in the Employee Handbook. The proposed revisions have been reviewed by the City's labor union representatives. The substantive revisions are summarized in Attachment A, which was discussed previously with the City Council during a work session. Two additional modifications have been made subsequent to that meeting: (1) the greeting letter has been revised by the new city manager and (2) seasonal employment has been defined as a separate employment status in Section 3.5.

Fiscal Impact: There is no fiscal impact.

Staff Recommendation: Staff recommends the City Council approve the attached resolution adopting the revised Employee Handbook attached as Exhibit A.

Legislative or Regulatory Changes:

5.9 – Employee Health and Safety

- Revised City's smoking/tobacco policy in accordance with City ordinance adopted by the City Council;
- Revised terminology regarding hazardous chemical information in accordance with OSHA's regulatory changes;
- (see also Updates and Clarification section below for additional revisions)

8.2 – Health Insurance

- Added provision for health insurance benefit eligibility for non-regular employees who average 30 or more hours of work per week as mandated by the Affordable Care Act.

9.4 – Leaves of Absence Policy

- Added Veterans Day Leave as type of leave of absence in list (see Section 9.14) (Source: SB 1; ORS 408.495)

9.7 – Family and Medical Leave

- Added Bereavement Leave under OFLA (source: HB 2950)
 - Defines leave and eligible family members
 - Outlines benefit and how coordinates with other City policies
- Revised Military Caregiver leave in accordance with amendments to FMLA
 - Added veterans to list of covered individuals and provided definition
 - Clarified definition of "serious illness"
- Revised Qualifying Exigency leave in accordance with amendments to FMLA
 - Clarifying that the law covers family members of employees in the National Guard, Reserves and the Regular Armed Forces, but only those deployed to foreign country
 - Allow for exigency leave for a service member's spouse, parent, or child to care for the service member's parent

9.14 – Veterans Day Leave

- Added Veterans Day Leave in accordance with regulations (Source: SB 1; ORS 408.495)
 - Allows Veterans as defined by ORS 408.225 to request Veterans Day off
 - Outlines benefit details

Other Revisions: (Note: if change reflected only grammatical or incidental changes that are not substantive to meaning of policy, they are not noted in this document.)

Preface and Greeting

- Updated Letter from City Manager

2.2 – Employment Relationship

- Added Human Resources Manager to list of at-will positions.

2.4 – Organization Hours (Overtime)

- Clarifies policy on non-exempt employees' off-duty use of electronic devices for work-related reasons.

3.1 – Recruitment and Selection

- Revised to reflect current pre-employment screening practices in light of best practices.

3.3 – Appointment Type

- Added Seasonal as type of appointment to distinguish between employment statuses.

4.3 – Pay Administration

- Added language referencing partial day absences for exempt employees.

5.2 – Ethics

- Added ethics language reflecting Oregon statute.

5.3 – Communications and Software Systems

- Section renamed: Electronic Communications and entirely rewritten to reflect technological and communication devices/mediums changes.

5.5 – Harassment

- Clarifications only.

5.6 – Substance Abuse

- Revised to reflect current pre-employment screening practices in light of best practices.
- Added drugs and/or metabolites to list of substances employees must report to supervisor if called to work in an emergency so supervisor can determine suitability for work.

5.7 – Vehicle Usage and Safety

- Clarifications only.

5.9 – Employee Health and Safety

- Clarifications of Safety Committee's responsibilities and employee safety training.

6.2 – Corrective Action

- Expanded examples of behaviors that could be cause for corrective action.
- Clarified when an employee can request to have prior disciplinary action removed from personnel file.

7.1 – Separation from Employment

- Updated organization property to be returned upon separation from employment.

8.3 – Life Insurance

- Changed standard life insurance coverage maximum from \$75,000 to \$140,000 in accordance with City's collective bargaining agreements for life insurance coverage requirements.

8.4 – Long Term Disability

- Clarification

8.5 – Section 125 Plan

- Changes the City "provides" to "may provide" Section 125 plans to allow flexibility if necessary due to federal ACA mandates related to the proposed Cadillac Plan excise tax.

8.6 – Retirement Plan

- Revised section to include defined contribution plan and part-time employees' eligibility to participate.

8.7 – Health Reimbursement Arrangement (VEBA)

- Updated language to reflect current situation.

9.1 – Vacation Leave

- Clarified when vacation leave is available for use.
- Decreased the minimum vacation leave employees can use from one hour to quarter hour increments.
- Modified policy allowing employees to use vacation leave during the two weeks immediately preceding their retirement date to prohibiting use of vacation leave to extend length of employment.
- Added requirement for exempt employees to use accrued vacation leave for partial day absences in certain circumstances.

9.2 – Sick Leave

- Clarified when sick leave is available for use.
- Decreased the minimum sick leave employees can use from one hour to quarter hour increments.
- Added language clarifying the time period employees may receive donated leave.
- Added requirement for exempt employees to use accrued sick leave for partial day absences in certain circumstances.

9.3 – Paid Holidays

- Clarification
- Added language that holiday leave may be used in quarter hour increments.

9.5 – Bereavement Leave

- Define “in-laws”
- Add reference to OFLA’s new bereavement leave law (see Section 9.7)

9.6 – Civic Duty Leave

- Added clarification that an employee must return to complete his/her shift if released early from jury/witness duty.

10.1 – Deferred Compensation

- Added post-tax (Roth) deferred compensation option.

10.2 – Wellness

- Added Water Aerobics Classes to staff’s wellness benefit at Aquatic Center

10.4 – Education and Training

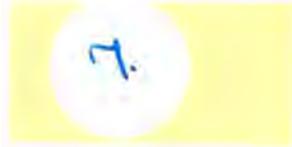
- Added reimbursable dollar amount for college courses and parameters for eligibility

10.6 – Voluntary Supplemental Benefits

- Housekeeping/updates

Acknowledgement Form

- Added acknowledgement of DMV monitoring for employees driving on City business



RESOLUTION NO. 2015-66

**RESOLUTION ADOPTING REVISIONS TO CITY OF FOREST GROVE
EMPLOYEE HANDBOOK AND REPEALING RESOLUTION NO. 2010-33**

WHEREAS, pursuant to City Charter, Chapter IX, Section 36, the City Council must adopt by resolution personnel-related policies following discussion and consultation with the City Manager; and

WHEREAS, the Human Resources Manager, under the direction of the City Manager, is charged to periodically review the existing Employee Handbook for compliance with legislation, policy, and best practices; and

WHEREAS, the Human Resources Manager, under the direction of the City Manager, has met in good faith with labor union representatives to discuss and negotiate the revisions to the policies set forth in the Employee Handbook as described in the attached Exhibit A; and

WHEREAS, Human Resources Manager, under the direction of the City Manager, is submitting to the City Council for consideration revisions to the policies set forth in the Employee Handbook as described in the attached Exhibit A.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY OF FOREST GROVE AS FOLLOWS:

Section 1. The City Council of the City of Forest Grove hereby adopts revisions to City of Forest Grove Employee Handbook attached as Exhibit A.

Section 2. Resolution No. 2010-33 is hereby repealed in its entirety upon the effective implementation date of this resolution.

Section 3. This resolution is effective immediately upon its enactment by the City Council.

PRESENTED AND PASSED this 14th day of September, 2015.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 14th day of September, 2015.

Peter B. Truax, Mayor

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CITY OF FOREST GROVE
EMPLOYEE HANDBOOK

Original Issue January 23, 2006
Revised April 26, 2010
Revised September 14, 2015

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**City of Forest Grove
Employee Handbook
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Welcome to the City of Forest Grove! We are glad you have joined us. We take pride in selecting people, such as you, to join our organization; and feel you will be a great complement to our team in providing a safe, livable and sustainable community.

We are confident you will enjoy a productive and pleasant association with us. To ensure that we do our part, we have created a compensation and benefits program and interactive work environment that fosters positive and productive work relationships. We ask you to do your part by contributing your best efforts.

We believe you can contribute significantly to our success and want you to share in the growth of our future, but we feel you can only do this if you understand our organization and your role within it. This Handbook has been prepared as a guide to give you a better understanding of the organization's policies, procedures, and practices that guide your employment and is intended to aid the City in achieving its goals through efficient utilization of staff.

The Human Resources Manager is responsible for ensuring fairness and equality in the interpretation and application of these policies. The City Council formally issues the policies as specified in the City Charter. Please familiarize yourself with its contents, keeping it handy as a periodic reference source. You can always find the most recent revision of this Handbook on the City-wide drive in the HR Info folder. We encourage you to ask questions about policies and procedures you may not understand and we welcome your suggestions on ways to improve.

Again, welcome to our team. In partnership with you, please know we'll make every effort to ensure you are successful in your new position. We truly value you and the contribution you make through your employment with us and sincerely hope you will enjoy your employment with the City.

Sincerely,

Jesse VanderZanden
City Manager

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CHAPTER 1

INTRODUCTION

1.2 Organizational Philosophy Statement

The essence of our organization is a sincere commitment to public service. We provide quality public service based on high ethical and professional standards. Courtesy, honesty, equity, and patience are characteristics that we strive for in our relations with the public. We also strive for open and honest communications with people in our community. Our business is public service and we're proud of it.

Mission Statement

To provide responsible leadership in governing the City and to effectively manage resources while responding to essential community needs.

Responsive and Responsible

As an organization, we are both responsive and responsible to the public we serve. We strive to provide leadership that is innovative and able to anticipate, accept and adjust to change in a positive manner. Requests for our services get a prompt and courteous response. We welcome public suggestions about improving our services. We realize that we are an integral part of a unique community.

We are responsible in that our professional knowledge and ethics guide us, offering our best advice to City policy makers. We value and participate in the establishment of community goals. We recognize that community goal setting is a process requiring public involvement. Once community goals are established, our primary purpose is to effectively and efficiently work toward carrying out the adopted City policies and programs.

We accept our stewardship role and recognize accountability for our actions.

Respect for the Individual

The individuals within our organization are our most valuable resource.

We recognize our obligation to provide the best possible working environment. Toward that end, we shall assist individuals in their professional development and encourage and support them in their quest for self-improvement. We encourage physical and mental well being of the individual. We are committed to offering support to our employees in return for their demonstrated commitment to the City of Forest Grove.

By treating each other with mutual respect and encouragement, by recognizing individual performance, and by keeping a sense of humor, we create a supporting environment that will enhance our service to the public.

Commitment to Teamwork

We work as a team as the City's greatest and trusted resource and asset. Our teamwork emphasizes:

Communication – We value communication both within our organization and with the public we serve. Open, candid communication increases understanding and builds trust. Friendly, service oriented employees are vital to our success.

Fiscally Responsible Management – We act as stewards of the resources that we are entrusted to manage.

Cooperation – We help each other. We demonstrate respect for co-workers by showing regard for their time, responsibilities, efforts, and feelings.

Collaboration – We value the contribution of everyone involved in a project. Active participation of all team members' skills, diverse backgrounds, and aspirations leads to better results.

Principle-Based Leadership – We provide direction and purpose in the achievement of the community's mission.

Recognition – We believe in celebrating our achievements and those of others that support the goals of the community.

We are partners with the citizens and elected officials in the process of maintaining and improving the quality of life in Forest Grove. We fulfill our portion of that partnership by providing high quality services through high quality individuals.

1.3 Equal Employment Opportunity

The City is an equal opportunity employer and, as such does not discriminate against qualified employees or applicants on the basis of race, color, religion, sex, pregnancy, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, veteran's status, medical condition, sexual orientation, genetics or membership in any other protected class. Equal employment opportunity will be extended to all persons in all aspects of the employer-employee relationship, including recruitment, hiring, training, promotion, transfer, discipline, layoff, recall, termination or any other term or condition of employment. Except to the extent that may be provided for differently by a collective bargaining agreement, employment opportunities are based solely on the abilities and capabilities of the individual to perform the essential functions of each job assignment. All employment requirements mandated by State and Federal regulations will be observed.

In keeping with our philosophy and Federal and State law, our advertising and recruiting material will contain the following statement to encourage qualified applicants to apply: "Equal Opportunity Employer". Our policy, as an equal opportunity employer, is to employ persons legally entitled to work in the United States without regard to citizenship, ethnic background, or place of national origin. However, our policy, in conformity with the Immigration Reform and Control Act of 1986 (IRCA), is to hire only those who are eligible to work in the United States. Verification documentation is required of all new hires.

Employment decisions shall be consistent with the principles of EEO. Selection decisions will rely on valid qualifications. Other personnel actions or programs such as, but not limited to, compensation, benefits, transfers, layoffs, returns from layoff, City sponsored training, education, tuition assistance, social, and recreational programs will be administered in a nondiscriminatory manner.

The passage and implementation of the Oregon Equality Act in 2008 applies to all organizations regardless of size and prohibits discrimination on the basis of sexual orientation including gender identity. No individual will be discriminated against based upon the individual's publicly and exclusively asserted gender identity, or any declaration of intention to change the individual's perceived gender.

Reporting Policy Violations

Any employee or prospective employee who believes they (or a co-worker) have been denied equal employment opportunity, may have been the subject of unlawful discrimination; or may have witnessed some violation of this policy should promptly report the facts to the immediate supervisor.

An employee who is not comfortable discussing the matter with the immediate supervisor may utilize other management representatives in the reporting structure or report it directly to the Human Resources Manager. Human Resources will ensure that claims are investigated promptly and that appropriate corrective action is taken, including notification to the City Manager.

Any supervisor or other employee, who after appropriate investigation, is found to have engaged in unlawful discrimination, will be subject to appropriate sanctions, which may, depending upon the circumstances, include termination.

Employees who report possible incidents of unlawful discrimination or Equal Employment Opportunity violations will be treated courteously and all such reports will be swiftly and thoroughly investigated in as confidential a manner as is possible under the circumstances. No employee will be discriminated or retaliated against in any way for bringing a question or complaint to the City's attention.

The City believes that fair treatment and respect are proper concerns of business and we encourage each employee to sincerely support this policy.

1.4 Americans with Disabilities Act

The Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act (ADAAA) are comprehensive federal civil rights laws that specifically protect individuals with physical and mental disabilities.

Individuals are protected if any of the following conditions exist:

- They currently have a physical or mental condition that substantially limits their ability to normally conduct a major life function (e.g., walking, seeing, hearing, breathing, etc.);
- They have a history of such impairment; and/or,
- They are perceived to have such impairment.

These laws prohibit discrimination on the basis of an individual's relationship (parent, sibling, child, spouse/significant other, etc.) to someone with a disability.

The City offers equal employment opportunities for qualified individuals who may have a physical or mental disability, but are still able to perform the essential functions of the job. Essential functions are defined as the fundamental non-marginal duties of the position being held

or sought by a disabled individual. A job function is essential if the position exists for the performance of the function, there are only a limited number of employees available to perform it, or the function is so highly specialized that an expert must be specially hired to perform it.

Reasonable accommodation is available to employees and applicants, as long as the accommodation doesn't cause undue hardship on the organization. Individuals protected by these laws should discuss their need for possible accommodation with their supervisor, manager, or the Human Resources Manager.

1.5 Form of Government

City Manager

The City of Forest Grove operates under the Council-Manager form of government as created by the City Charter. The Council adopts policy and the Manager is charged with implementing it. The Manager functions similar to a CEO in carrying out the adopted policy set by the Council.

The City Manager is responsible for personnel administration and may delegate any of these powers and duties to another City employee. For purposes of daily administration, the City Manager delegates responsibility in the following manner:

Human Resources Manager:

- Recruitment process
- New employee orientation
- Benefits plan administration
- Retirement plan administration
- Classification and compensation
- Labor and employee relations
- Review and auditing of personnel actions
- Personnel records administration
- Affirmative action

Department Directors:

- Selection and appointment
- Performance management
- Creation of a positive environment
- Retention
- Corrective (disciplinary) action
- Personnel budgeting through the budget process

The City Manager reserves the right to modify the delegation of authority when operational requirements necessitate.

City Council

The City Council is responsible to the citizens of Forest Grove to establish and direct the policies governing the administration and management of the City. The City Charter states, "Except as

this charter provides otherwise, all powers of the City are vested in the Council.” The Council consists of the Mayor and six Councilors each elected to four-year terms.

The Mayor is a voting member of the Council. The Mayor represents the City at ceremonial functions, presides over Council meetings, consults with the City Manager on Council Agendas, appoints and consults with City boards and commissions as approved by the Council, and routinely discusses questions and concerns with the City Manager.

The City Council establishes the personnel policies that are contained in this Handbook, with consultation from the City Manager.

CHAPTER 2

PROGRAM ADMINISTRATION

2.1 About this Handbook

This Employee Handbook is a compilation of the personnel policies adopted by the Council under the City Charter, and replaces all personnel policies issued prior to its adoption by the Council. It is intended to help you understand the employment provisions and expectations of the City. This Handbook applies to all employees working for the City, regardless of representation or affiliation. If you are a member of a labor union, please refer to your current labor agreement for additional information regarding the terms and conditions of your employment.

There are several things about this Handbook that are important to keep in mind. It contains only general information and guidelines. It is not intended to be comprehensive or to address all the possible applications or exceptions to the policies and procedures described herein. The policies outlined in this Handbook are based on the belief that common sense, good judgment, and consideration of the rights of others are paramount to our ability to serve the citizens and each other. We have tried to anticipate many of your questions, but in no way do we believe that this document will provide every answer. For that reason, if you have any questions concerning eligibility for a particular benefit, or the applicability of a policy or practice to you, you should address your specific question to your supervisor or the Human Resources Manager.

We recognize that employees differ in their skills, goals, perceptions and values and that conditions may arise because of that diversity which may not be sufficiently addressed within this Handbook or which may result in conflict. When that occurs, the City will endeavor to make decisions that are fair and equitable, while at all times ensuring the best interests of the City are served.

Please note that the policies, procedures, and regulations in this manual are not intended to contradict any provision of a current labor agreement, nor will any section of this manual supersede any provisions of such agreement.

The procedures, practices, policies and benefits described herein may be modified or discontinued from time to time. We recognize our responsibility to keep employees informed of changes that may affect them and as changes are made to the Handbook, we will endeavor to see that you are promptly informed. You may always review the current Handbook on the Citywide drive in the HR Info folder.

Some subjects described in this Handbook such as the benefit and retirement plan information are covered in detail in official policy documents. You should refer to these documents for specific information since this Handbook only briefly summarizes those benefits. Please note that the terms of the written insurance policies are controlling.

You are encouraged to offer suggestions for improvements to these policies, employment practices or working conditions. Please read through the Handbook carefully and share it with your family members so that they will also understand your new work environment. Should you have additional questions, or need further detail, please talk with your supervisor or the Human Resources Manager.

2.2 Employment Relationship

Employment At Will Positions

Appointments into the positions of Department Director (Police, Fire, Library, Public Works, Administrative Services, Parks & Recreation/Aquatics, Community Development, Light & Power, and any future Departments created by the City), Human Resources Manager, City Manager, Municipal Court Judge, and any temporary, intermittent, seasonal and initial probationary appointments to any position will be considered "at will". At will employees may be terminated at any time, with or without cause and without right of appeal. Employment for at will employees is for no definite period of time and may, regardless of the time and manner of payment of wages and salary, be terminated at will.

At will employees, as defined in this policy, whose position is eliminated are deemed terminated.

All Other Employees

All other employees of the City who are not represented by a labor organization are subject to the City Appeals & Dispute Resolution procedure and covered by the terms contained in Chapter 6 of this Handbook after successful completion of the Initial Probation; see Chapter 3, Types of Appointments.

No one in the organization has the authority to enter into any agreement contrary to this and it cannot be altered except by union contract or in writing and signed by the City Manager and you. The City of Forest Grove is also not bound by any oral promises.

The City recognizes that all employees have the right to form, join, and participate in the activities of labor organizations of their choosing for the purpose of representation on matters within the scope of collective bargaining for the State of Oregon.

2.3 Confidentiality

City employees have access to highly confidential and proprietary information, including such information about our business plans and citizens. Our citizens trust the City with confidential information. The unauthorized disclosure of such information would have a material adverse impact on the integrity of the City and would have an adverse impact on our relationships with our customers. No employee should disclose any information pertaining to the organization or customers without prior explicit approval of their manager/supervisor.

No City records and information including without limitation, documents, files, records, computer files or similar materials, except in the ordinary course of performing duties on behalf of the City, may be removed from our premises without permission from the City Manager. Additionally, the content of the organization records or information otherwise obtained in regard to business may not be disclosed to anyone, except where required for a business purpose or legal public records request. For additional assistance concerning public records request, please contact the City Recorder. Employees are subject to appropriate corrective action, up to and including termination for revealing information of a confidential nature.

The City recognizes our employees' rights to privacy. In achieving this goal, the organization adopts these basic principles:

1. The collection of employee information will be limited to information the organization needs for business and legal purposes.
2. The confidentiality of all personal information in our records will be protected, except where required by law.
3. Internal access to employee records will be limited to those employees having an authorized, business related need-to-know. Access may be given to third parties, including government agencies, as a result of a court order or subpoena.
4. The organization will refuse to release personal information to outside sources without the employee's written approval, unless legally required to do so. Verifications of employment dates, position, salary, and title may be provided without prior approval of the employee.
5. Employees are permitted to see the personal information maintained in their personnel file, and may correct inaccurate factual information or submit written comments in disagreement with any material.
6. All employees involved in record keeping will be required to follow these policies and practices. Violations of this policy will result in corrective action up to and including termination.

2.4 Organization Hours

The City's general office hours vary by Department; please refer to your Departmental rules for specific information.

Specific workday and workweek schedules for each employee will be determined from time to time by your supervisor based on the operational needs of the City. The City will attempt to notify you of any changes in workdays or workweek schedules two weeks in advance of the effective date of change. Management reserves the right to modify schedules consistent with the needs of the City.

The normal workday is eight hours. The total hours in a normal workweek is forty (40), Sunday through Saturday. If you are a nonexempt employee, you should not begin work before your normal starting time nor continue working beyond the normal quitting time without advance approval from your supervisor. Working through a lunch period is also not permitted unless approval from your supervisor is obtained prior to the scheduled lunch break.

If you are represented by a collective bargaining agreement, please refer to the specific language contained in it.

Overtime

You may be required to work overtime. Overtime hours will be paid to non-represented, non-exempt employees at one and one-half times the basic straight time hourly rate for all hours worked in excess of forty (40) in a regular workweek, or as otherwise required by State and/or Federal laws. Paid leave will be considered in computing the forty hours after which overtime is paid, excluding sick leave. Your department supervisor must approve any overtime work hours prior to their being worked. Supervisors/managers are to ensure that no unauthorized overtime

hours are worked. Working unauthorized hours in excess of forty (40) in the workweek may be grounds for corrective action.

Time spent checking and/or responding to work-related email, texts, and/or voicemail on electronic communication devices (including, but not limited to desktop and laptop computers, mobile electronic devices, cellular phones, smart phones, tablets, etc.) by employees who are not exempt from the provisions of the Fair Labor Standards Act (FLSA) (see Section 3.4), during off-duty time is not permitted and will be considered unauthorized work subject to disciplinary action. Any exceptions to this policy must be approved by the employee's supervisor in writing.

Meal and Rest Periods

Meal and rest periods will be provided for you according to Federal and State law. Supervisors will review these and set scheduled times. Nonexempt employees are not permitted to work through a meal period unless approval from a supervisor is obtained prior to the scheduled meal break.

All nonexempt employees are entitled to a half-hour unpaid lunch break each day and a 15 minute paid rest period for each four hours worked. Employees are required to notify their supervisor in the event that they are unable to take their required 15 minute paid rest period.

Social and Recreational Activities

Participation in all off-duty social or recreational activities such as City or Departmental picnics and Holiday parties is entirely voluntary. Participation or nonparticipation will not have any effect on your wages, hours, working conditions, or present/future employment opportunities.

Work from Home

Employees are only permitted to work from home in two situations:

- 1) Long term/recurring schedule: Employees may work from home on a recurring schedule if approved for a telecommuting arrangement. The agreement must be in writing and approved by the City Manager prior to the employee commencing work at home.
- 2) Short term/non-recurring: Employees may work on short term, non-recurring projects with prior permission from their Department Director.

Before granting permission for short-term work at home arrangements, supervisors should know the specific work to be performed and the projected amount of time expected. If the work at home will cause a non-exempt employee to work enough hours per day or week to become eligible for overtime under federal and state law then the supervisor should consult the overtime policy before granting permission. Department Directors should also consult with the Human Resources Manager regarding other issues related with work at home arrangements prior to the employee commencing work at home.

Under no circumstances are employees permitted to work at home without prior permission. Any attempt to do so, with or without reporting such time, may result in corrective action.

Emergency Closing

The City will make every effort to maintain normal Departmental work hours even during inclement weather. City employees, particularly those with emergency responsibilities, are expected to make every effort to come to work to serve the public.

The City reserves the right to determine whether or not an event qualifies as “inclement weather”.

Department Directors are responsible for determining which positions are considered “emergency” and “non-emergency” during inclement weather events.

The City Manager is responsible for determining when to close specific City operations, or to allow employees to leave work early, due to inclement weather or in the event of a natural disaster.

The City Manager will communicate operational closures for non-emergency staff through the following methods:

- Telephone Contact with the Department Directors
- Voicemail message on the City’s Main Line (503) 992-3200 by 0700 AM the morning of the closure and/or the City’s website: www.forestgrove-or.gov
- Public announcements through local media releases.

It is the responsibility of the Department Directors to notify all personnel under their supervision. Department Directors may reassign employees when hazardous environmental conditions that interfere with normal operations exist. If such a decision is made, the Department Director shall provide notice to the City Manager.

Employees who are working and, subsequently, Departmental operations are suspended will normally receive their regular pay for the remainder of their scheduled shift, subject to approval by the City Manager. Employees who are on an approved leave of absence (e.g., vacation, personal holiday, compensatory time, sick leave, unpaid leave of absence) will not be eligible to receive regular pay for any hours that are deemed paid to employees who are at work when operations are suspended.

In the event of inclement weather without City closure, the following rules apply:

- **Reporting to Work:** Employees are encouraged to use their best judgment in determining environmental conditions related to their commute. Non-emergency personnel who decide that road conditions are a threat should contact their supervisor and notify them that they will be absent. In this event, the employee may charge time not worked to vacation leave, compensatory time off, or saved personal holiday.
- **Early Departure and Late Arrival:** After receiving approval from a supervisor, an employee may charge any time not worked to vacation leave, compensatory time off, or saved personal holiday, at the employee’s discretion.

- Unpaid leave is only available upon exhaustion of the above accrued leave balances (vacation, compensatory time off, or saved personal holiday). Sick leave may not be used for this purpose.
- Persons with Disabilities: Employees who are disabled pursuant to the Americans with Disabilities Act may require reasonable accommodations in order to help such employees get to work during periods of inclement weather or in the event of a natural disaster. Employees who feel they need this type of assistance should contact Human Resources to identify an appropriate manner in which the City can help the employee get to work.

2.5 Employee-Incurred Expenses and Reimbursement

The City will pay all actual and reasonable business-related expenses you incur in the performance of your job responsibilities. All such expenses incurred must be pre-approved by your Department Director before payment will be made.

Expense reports are to be submitted and supported by evidence of proof of purchase, e.g., receipts. Expense reports are due to the Department of Administrative Services within five days following end of month.

Mileage Reimbursement

Please refer to Vehicle Usage and Safety, Chapter 5.

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CHAPTER 3

RECRUITMENT & SELECTION

3.1 Recruitment and Selection

It is the goal of the City to fill employment vacancies with the most qualified applicants, whether recruiting internally or externally. Job applicants will be considered on an equal basis for all positions without regard to race, color, religion, sex, pregnancy, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, veteran's status, medical condition, sexual orientation, genetics, or membership in any other protected class.

The City's policy is to always try to select the most qualified person for each available job, giving preference, whenever possible, to existing employees over outside applicants. External recruiting may be initiated concurrently with the internal posting process, but no hiring commitment for a regular position can be made until the position has been internally posted for a minimum of five working days.

Former employees and relatives of current employees will be considered for employment in the same manner as any other applicant. The City retains the right to refuse to place one spouse or immediate family member under the direct supervision of the other spouse or family member, where such placement creates an adverse effect on supervision, safety, security or morale.

The Human Resources Manager is responsible for the oversight and implementation of City recruitment and selection process. They will determine when a recruitment will be opened for application, and in conjunction with the hiring Department, whether the recruitment will be limited to internal candidates or open to the public. If a recall list exists for a classification, it will be exhausted in compliance with any collective bargaining provisions.

All Regular vacancies will be posted for a minimum of five (5) working days during which time applications will be accepted. The Human Resources Manager will develop a recruitment plan and ensure that a fair, valid, and competitive method of selection is utilized and documented. Recruitment efforts will incorporate the City's commitment to diversity, competitiveness, and organizational excellence. Recruitment practices will include a process whereby all applicants are aware of the requirements of the position and applicable deadlines. The Human Resources Manager will determine the application requirements. All application materials will become property of the City. Where recruitment is limited to internal candidates only, Temporary, Seasonal and/or Intermittent employees are eligible to apply, depending upon the nature of the applicant pool.

The Human Resources Manager will be responsible for overseeing each phase of the selection process. The Human Resources Manager may establish a hiring list of qualified applicants that may be used to fill other anticipated vacancies. The Human Resources Manager will determine the duration of the hiring list, but in no case will a list be utilized beyond a one-year date from the date it was created. The Human Resources Manager may discontinue the use of an established list at any time; however all applicants on the list will be notified if the list is discontinued prior to the original expiration date established.

Application, testing, and background documents will be deemed confidential and will not be open to inspection by the applicant, other applicants, or the public except as otherwise required by law or legal process.

All job offers in the City are contingent upon a review of the applicant's driving record pursuant to Chapter 5, a criminal background check, and any other specific requirements of the position, which may include a pre-employment drug screen, physical and/or psychological evaluation, background investigation, and/or credit history check for certain positions.

Department Directors may hire temporary, seasonal and/or intermittent employees for positions which are seasonal, project oriented, designed to cover work for an absent employee, manage a temporary shift in workload, or for other business reasons. Temporary employees will typically be utilized only when the need for the position is originally estimated to be twelve months or less, unless otherwise approved by the City Manager. Temporary positions originally designated to exceed twelve months or which are extended beyond twelve months require the approval of the City Manager. Department Directors should seek consultation with Human Resources and the Administrative Services Director prior to recruiting for temporary, seasonal and/or intermittent positions.

3.2 Orientation and Introduction

In order to ensure a positive integration into the City's operations and get new employees started on a productive and satisfying employment relationship, all new employees will be scheduled for a thorough orientation, administered by the Human Resources Manager. This orientation will normally be conducted during the first week of work. You will receive detailed information about general policies, procedures and benefits and basic information on pay and leave policies. Orientation sessions are documented using the New Employee Orientation checklist, which is signed by both you and the staff member conducting the orientation, and it is retained in your employee personnel file as a permanent record.

Department Directors are responsible to ensure that new employees are oriented to any specific Department, position, and work environment requirements and expectations.

As a new employee, you are hired on an initial probationary period of one year, see Chapter 3. The initial probationary period is an extension of the employee selection process. During this period, you are considered to be in training and under observation and evaluation by your supervisor. Evaluation of your adjustment to work tasks, conduct, and other work rules, attendance and job responsibilities will be conducted during the initial probationary period. This period gives you an opportunity to demonstrate satisfactory performance for the position, and also provides an opportunity to see if your abilities and the requirements of the position match. It is also a chance to see if the City will meet your expectations as an employer.

Your performance will be evaluated at six months and at the end of your initial probationary period, and a decision about your employment status will be made. If you successfully complete the initial probationary period, you will be moved to regular status. If expectations are not met or skills are not satisfactory, it is unlikely that employment will be continued.

3.3 Types of Appointments

Appointment Type:

- Volunteer: An appointment, as defined in ORS 657.015, to which the appointee volunteers or donates services without receiving or expecting remuneration. Volunteer appointments are not eligible for benefits unless specifically authorized in a written agreement by the City Manager. Terms and conditions of volunteer appointments are contained within the City's Volunteer Handbook and any specific rules promulgated by the Department for which the Volunteer appointment is made. Please refer to the Volunteer Handbook for additional information.
- Temporary: An appointment which has a duration of less than one year and less than 2080 hours. This type of appointment is considered "at will" and is not eligible for benefits unless specifically authorized in a written agreement by the City Manager.
- Seasonal: An appointment which has a duration of six or less months and is intended to cover a particular period of time; e.g. parks maintenance during the summer months, when additional employees are required due to increased work related to that season. This type of appointment is considered "at will" and is not eligible for benefits unless specifically authorized in a written agreement by the City Manager.
- Intermittent: An appointment that does not require a regularly scheduled workweek and is less than one-thousand forty (1040) hours in a year. This type of appointment is considered "at will" and is not eligible for benefits unless specifically authorized in a written agreement by the City Manager.
- Initial Probation: All new employees, excluding "at will", shall serve an initial probationary period of twelve (12) months. Employment during the initial probation period is considered "at will". Represented employees should refer to your collective bargaining agreement. Please refer to Chapter 8 for benefit information.
- Regular: Appointment commencing after successful completion of the Initial Probation. Employees will automatically achieve regular status at the end of their initial or transitional probationary period unless the Human Resources Manager receives written notification from the Department Director prior to the conclusion of the probationary period that the probationary period will be extended, or in the case of an initial probationary period, that the employee has not been successful in completing the probationary period. Please refer to Chapter 8 for benefit information.
- Transitional Probation: Employees who have completed their Initial Probationary Appointment and are subsequently promoted or who request a lateral transfer or reassignment will serve an additional transitional probationary period of twelve (12) months.

Employees who are not successful in completing their transitional probationary appointment may, at the City's discretion, be transferred or reassigned to another vacant position. The Human Resources Manager will be responsible for determining if the employee is qualified for the transfer or reassignment. The employee will serve an additional transitional probationary period of six (6) months following transfer or reassignment.

When an employee's position has been re-designated to a higher level position, and the employee is assigned to the position without a competitive recruitment process, the employee will not be required to serve a transitional probationary period.

Employees who are promoted or who request and are granted a transfer or reassignment while serving their initial probationary period will have the remainder of their initial probationary period run concurrently with the new transitional probationary period.

Initial probationary periods may be extended up to six (6) months at the discretion of the Department Director.

3.4 FLSA Classification

FLSA (Fair Labor Standards Act) Status

Employees are further classified according to Federal and State wage and hour laws into two additional categories of exempt and non-exempt as defined below. The Human Resources Manager will make appropriate designation regarding the status of each City position or when a position changes substantially. If you are uncertain as to your status, please contact the Human Resources Manager.

- Exempt: An employee who is exempt from the overtime pay requirements under federal and state laws. Exempt employees include managers, executives, supervisors, and professional staff and others who are paid a salary and whose duties and responsibilities allow them to be exempt under federal and state law.
- Non-Exempt: An employee who is paid an hourly wage, assigned a regular work shift of not more than forty (40) hours per week, and whose job calls for overtime payment as appropriate under state and federal regulations.

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CHAPTER 4

CLASSIFICATION & COMPENSATION

4.1 Position Designation

Position Designation

Every position in the City will be allocated to a Council approved classification and salary range. Each position designation will be accompanied by a position description containing the specific duties and responsibilities assigned to the position designation. Position descriptions will include the title, a narrative on the duties, the level and scope of responsibility, the minimum qualifications, and the knowledge, skills, and abilities required in order to successfully carry out the responsibilities. Position descriptions are intended to be explanatory and not restrictive. Department Directors are responsible for the content of the descriptions and retain the ability to modify specific and/or daily tasks as required including the assignment of higher level duties for limited periods of time.

Except under exceptional circumstances as determined by the City Manager, no new Regular position will be filled until a position designation has been determined by the Human Resources Manager. In the event that a position designation results in the need for a new City salary range, the Council must approve of the new range prior to position establishment in the budget. The Human Resources Manager will ensure that all employees are notified of their position designation and will maintain the official City record of all active position descriptions.

Department Directors are responsible for ensuring that the number of current employees does not exceed the number of budgeted positions.

Position Re-designation

Employees who believe that their duties and responsibilities have changed significantly since their position was designated may request a review of their position designation by making a written request to their Department Director. Once received from the Department Director, the Human Resources Manager will conduct an analysis of the duties and responsibilities of the position and determine the appropriate designation.

When an incumbent's position has been re-designated to a classification that is lower in salary, the employee will have the option of taking a voluntary reassignment. If the incumbent does not elect to take a voluntary reassignment and no other position is available for which they are qualified and is within their salary range, they may:

1. Request a voluntary transfer into another vacant position for which they are qualified.
2. Accept termination.
3. If part of a bargaining unit, they may exercise any specific rights under the current collective bargaining agreement.

When an incumbent's position has been re-designated to a classification with a higher salary, the Department Director will have the option of promoting the incumbent or conducting a recruitment process. Promotion of the incumbent will be dependent upon the Human Resources Manager's determination that the incumbent meets the requirements as defined in the new or revised position description. For incumbents to be promoted without a recruitment process, the Department Director must demonstrate that the duties and responsibilities of the position evolved over a significant period of time, typically greater than 18 months. The Human Resources

Manager will determine if the change in position designation is due to a gradual increase in duties and responsibilities over a significant period of time. If the Department Director conducts a recruitment for the re-designated position and the incumbent is not selected, and there are no other positions available for which the employee is qualified that are within the same salary range, the incumbent may:

1. Request a voluntary transfer into another vacant position for which they are qualified.
2. Accept termination.
3. If part of a bargaining unit, they may exercise any specific rights under the current collective bargaining agreement

When a re-designation of a position is the result of a City wide classification study, the incumbent of the position may retain the position and any applicable compensation policies as described in this Handbook.

4.2 Classification and Compensation Plan

The City Manager is responsible for the creation and maintenance of a classification plan. The classification plan will consist of a comprehensive listing and definition of all Council adopted classifications and salary ranges in City service. The purpose of the classification plan will be to:

- Establish qualification standards for employment eligibility,
- Assess parity in compensation for similar positions,
- Develop standards of work performance,
- Establish job families and career tracks,
- Provide a framework for analysis of organizational relationships or position designations (see Position Designations),
- Assist in the budget development process,
- Provide flexibility in the assignment of personnel.

The Human Resources Manager will administer a review of all City classifications and assigned compensation levels on a regular schedule. The Human Resources Manager will submit their findings to the City Manager for review. The City Manager will provide a report to the City Council for review and adoption. Compensation levels are typically reviewed every three years, concurrent with contract negotiations.

The City Council has adopted the following compensation philosophy:

- Compensation and benefit levels will be evaluated against current labor market comparables for each employee group (bargaining unit, management, non-represented, etc.). It is the Council's policy to maintain City compensation within plus-or-minus five (5) percentage points of the labor market median. Compensation and benefit levels will be based on all relevant information including, but not limited to, internal equity, salaries paid by other employers for comparable work, fringe benefit packages, the City's financial condition, and unusual problems of recruitment and/or turnover.

It is the Human Resource Manager's responsibility to determine the relevant labor market comparables when conducting a review of compensation. The Human Resources Manager will analyze classifications in terms of duties and responsibilities, knowledge, skills, and abilities, minimum qualifications, changes in labor market forces and competition, and other relevant factors.

The City Council has ultimate authority to approve and/or revise the proposed salary and compensation adjustments as submitted by the City Manager. Compensation levels will be viewed as total compensation, including an analysis of salary, fringe benefit levels, cost of living changes, and other relevant factors.

In exceptional circumstances, the City Manager may initiate a review of compensation earlier than the three-year schedule in order to meet immediate organizational needs such as a rapid change in competition, labor market forces, or other factors. In this event, the City Manager will report findings to the City Council for review and adoption.

4.3 Pay Administration

The City values employees and is committed to compensating employees for their efforts and results. It is our intent to provide a competitive compensation package that will attract, retain and motivate employees. It is also our intent that policies and pay practices be administered consistently throughout the City.

Your pay as a new employee is established based on the pay level of current employees in the same or similar positions, and your previous experience and skills. The City Council adopts the salary schedule from which all City employees are compensated, see Classification and Compensation Plan.

You will be eligible for future pay increases based on your performance, contributions and success. This policy is to be interpreted in accordance with applicable federal and state laws and regulations.

Cost of Living Adjustments (COLA's)

If the City Council approves an annual cost-of-living adjustment, you will receive it as a modification to your base salary.

Merit Salary Increases

It is the City's policy to reward you with increases in pay for your dedication in your work, extra effort, and contributory performance. Management does not award increases on an automatic basis or at any preset interval. Your supervisor will determine if an increase is warranted at the time of your performance review. Step increases will be awarded based on satisfactory performance as documented in your performance appraisal. Exceptional performance may be rewarded with accelerated advancement through the steps. Prior written approval from the City Manager is required for accelerated advancement.

Paydays

You will be paid at least monthly, according to the City's payroll cycle. If the payday falls on either a Saturday or Sunday, paychecks will be distributed on the Friday prior to the payday. If a City holiday falls on a designated payday, you will receive your check on the last workday prior to the holiday.

Payroll Deductions

Certain mandatory and elective deductions are made from employee pay, and are noted on the paycheck stub. Only those deductions mandated by law or those you have authorized in writing are made, provided such deductions are not otherwise prohibited by state regulations.

Delivery of Paychecks

Your paycheck will be delivered to you each payday or directly deposited to your account as authorized. No paychecks will be delivered to any person other than you except upon your written request to do so.

Method of Payment

A statement of earnings and deductions showing gross earnings, deductions and the net salary amount will accompany each paycheck or notice of direct deposit. Employees are normally paid by check, but you may request payment by direct deposit to a checking or savings account at a financial institution, provided your financial institution has that capability.

Employee Withholding Allowance Certificates Form W-4

You are required under Federal law to furnish the organization with an Employee Withholding Exemption Certificate (W-4) at the date of hire. You must file a new W-4 form at any time the number of entitled exemptions decreases to less than the number being claimed. New W-4 forms may be filed when the number of entitled exemptions increases if desired, but it is not required. You may increase withholding by claiming fewer exemptions than entitled or by requesting additional withholding to be made if you find that insufficient tax has been withheld to meet your year-end tax liability.

Time Records for Nonexempt Employees

The timesheet is a record of time worked and must be filled out. It provides a permanent record of the time spent on the job, indicating the exact time worked. Each nonexempt employee will be issued a timesheet at the start of the pay period. Nonexempt employee pay is calculated from this record.

You should review your timesheet at the end of each week for completeness and accuracy. Supervisors will review timesheets each pay period and authorize them by signature. Timesheets must be completed in ink. If an error is to be corrected or time clarified, the timesheet should be taken to your supervisor who will take the appropriate action. All corrections must be made, reviewed, and initialed by the supervisor. Timesheets should be reviewed, signed, and turned in at the end of the pay period. Your signature on the timesheet each pay period verifies that the times and dates are true and accurate to the best of your knowledge. You should never allow someone else to make entries on your timesheet. Willfully falsifying a time card will be grounds for corrective action, up to and including termination.

Time Records for Exempt Employees

Employees classified as exempt report only absences from work on their timesheets. No deduction of pay will be made for hours worked less than your regular daily work schedule, typically eight (8) hours per day. Exempt employees may be required to use paid accrued leave (sick leave, vacation, leave, personal holiday or administrative leave) to cover full or partial day absences in accordance with City policy. While exempt employees are not paid by the hour, it is generally expected that the duties of their position will require a minimum of forty (40) hours per week to achieve optimal performance. By signing the timesheet, you are certifying, by default, that you have worked an average of forty (40) hours in each week in the pay period.

Improper Deductions from Pay for Exempt Employees

The City will reimburse any exempt employee whose pay is reduced in violation of this policy. If you feel your pay has been improperly reduced, please notify the Human Resources Manager.

Final Paycheck

While we request that you give us at least ten days advance notice prior to departure when resigning from the organization, if you provide us with at least 48 hours notice (excluding holidays and weekends) you will receive your final paycheck on the last day worked. If less notice is given, the final paycheck will be provided within five business days or on our next regularly scheduled payday, whichever occurs first. Final paychecks will include all wages earned through the last workday plus payment for any accrued and vested benefits that are due and payable at separation.

4.4 Salary Administration

The Human Resources Manager will provide consistency and guidance in the management of salary administration. This includes the approval of beginning salaries, performance based salary adjustments, increases at time of promotion and the provision of pay options in the event of a transfer, demotion, reassignment or leave of absence.

All salaries will be set within the Council adopted salary range and in compliance with applicable federal, state, and local laws. Payment of salaries for employees covered under the overtime provisions of the Fair Labor Standards Act or state law will be for hours worked except where these policies permit otherwise. Hours worked include holidays and any paid leave time, excluding sick leave.

Salaries for New Employees

Employees will normally be hired or reinstated at the beginning of the salary range. When the City Manager deems it is appropriate, they will have the authority to approve a higher starting salary. In any event, a beginning salary may not exceed the salary range approved by the Council for that position.

Salaries for Promotional Appointments

Employees will normally be promoted to a salary rate at least one step higher than his or her base pay in the lower classification, unless such an increase puts him or her beyond the top of the higher range. A one step increase is defined as the percentage difference between the final two steps of the lower range. If the employee's base pay in the lower range plus one step increase is

lower than the first step in the higher range, the employee will be paid at the first step rate. If the employee's base pay in the lower range plus one step increase is higher than the top step in the higher range, the employee will be paid at the top step rate. If the employee's base pay in the lower range plus one step increase falls within the higher range, the employee will be paid at the step rate which represents at least a one step increase, but less than a two step increase in base pay.

When the City Manager deems it is appropriate, they will have the authority to approve a higher promotional starting salary.

The employee's anniversary date for wage increases will be the date of appointment to the promotional classification.

Overtime & Compensatory Time

Overtime for FLSA non-exempt, non-represented employees will be paid for time worked in excess of forty (40) hours in the employee's designated workweek. Time worked will include any paid leave taken during the week in which the overtime is being calculated, excluding sick leave. Only those employees who are not exempt under the provisions of the Fair Labor Standards Act or state law, unless otherwise designated by the City, will be eligible to receive overtime pay and/or compensatory time. Overtime will be paid at the rate of one and one-half times the employee's regular rate of pay. Time worked as overtime will not be considered when determining eligibility for benefits, retirement, or completion of either an initial or promotional probationary period.

Non-represented employees who are eligible for overtime pay may, with the mutual consent of their supervisor, accrue compensatory time in lieu of overtime. Compensatory time will be earned at one and one-half times the number of hours worked and may be accrued up to a maximum of eighty (80) hours. Compensatory time off will be considered the same as time worked when determining eligibility for benefits, retirement, or completion of either an initial or promotional probationary period.

Temporary, seasonal and intermittent employees are eligible for overtime under the same conditions as regular employees, however; they may not earn compensatory time.

Annual Salary Adjustments and Special Increases

All salary adjustments will be based on performance as documented in an employee's performance appraisal. Annual salary adjustments will occur every twelve months on the employee's anniversary date from appointment into the position. When an employee has performed at or above the satisfactory level, as determined by their supervisor, the employee may be granted a one step salary increase. Salary increases will be commensurate with performance ratings; however, in no case may an increase cause the employee's salary to exceed the top of the salary range established by Council.

When exceptional performance is documented in an employee's performance appraisal, a supervisor may recommend an acceleration of advancement through the salary range, normally a two-step increase. Department Directors must submit a written recommendation for approval to the City Manager prior to initiating the increase.

Employees who experience any leave of absence without pay, excluding military service or Family Medical Leave, which exceeds thirty (30) calendar days, will have their annual salary adjustment prorated to reflect the actual number of months in paid status during the evaluation cycle.

The City Manager will have the authority to approve individual salary increases outside of the annual adjustment should special circumstances warrant such action.

Represented employees will receive annual salary adjustments in conformance with their collective bargaining agreement.

Higher Classification Work

When an employee is assigned in writing to assume the majority of the duties (greater than 50%) of a position in a higher pay range for a period of more than 8 continuous hours, they will be awarded higher classification pay. The premium will normally be five (5) percent over their base rate of pay for all hours worked at the higher level position. This premium does not apply in situations where an employee is performing higher level duties for the purposes of training.

When the Human Resources Manager deems it is appropriate, they will have the authority to approve a higher premium.

CHAPTER 5

STANDARDS OF CONDUCT

5.1 Work Rules

The City believes that policies and procedures are essential for the orderly operation of our business and for the protection and fair treatment of all employees. As a result, we have clearly identified performance expectations so that everyone can act in accordance with our workplace standards. Courtesy and common sense should always prevail. The following work rules are not all-inclusive, but serve as guidelines to demonstrate work behaviors considered important to the City.

1. You are expected to be at work on time, stay until your workday ends, and to do the work assigned or requested of you. If you are unable to be at work on time, you are expected to contact your immediate supervisor promptly. Please refer to Departmental attendance guidelines for additional information.
2. You are expected to regard your workplace with respect and attention. City of Forest Grove records, equipment, and property are to be treated carefully and appropriately. You are responsible for those items in your custody and will be held accountable for their maintenance, appropriate use and/or accuracy.
3. You are expected to act in accordance with all appropriate codes, laws, regulations, and policies, regardless of whether they are set by the City or outside regulatory bodies.
4. You are expected to conduct yourself in a professional manner, exhibiting a high regard for our customers, vendors, business associates, and co-workers. No breach of professional behavior (abusive language, harassment, personal business during work time, etc.) will be condoned. This also applies to alcohol consumption when representing the City in a business or social capacity.
5. You are expected to maintain the confidentiality of organization information or customer information in your possession (i.e., personnel information, etc.).
6. Clothing you wear to work should be neat in appearance and be consistent with a professional atmosphere, keeping in mind the impression made on the public, visitors, and other employees and the need to promote organization and employee safety. Good individual judgment is the best guideline, but the City retains the right to decide what dress is appropriate. Please speak with your supervisor for Department specific dress standards.
7. Public relations is an integral part of each employee's job. Employees represent the City to those with whom they come in contact or by whom they are observed. All employees should remain cognizant of this responsibility in carrying out their duties in a professional and efficient manner.

The information regarding appropriate behavior may help in providing guidance for employee actions. You are urged to use reasonable judgment at all times and to seek supervisory advice in any doubtful or unclear situation. By everyone doing their best to meet both the spirit and intent of these guidelines, employee disciplinary issues should be minimal. As a matter of policy, the City seeks to resolve conduct and performance problems in the most informal and positive manner possible. However, when someone does not conduct themselves with the intent of the work rules, action will be taken to correct the situation promptly and completely. Violations of workplace rules will result in corrective action, up to and including termination.

The City also believes that employees should be given an opportunity to be heard in matters involving discipline and we have adopted formal procedures. Please refer to chapter 6 of this

manual. Employees who are covered under collective bargaining provisions are encouraged to refer to the specific language contained in their agreement.

Department Directors are responsible for the establishment of rules and procedures, which regulate the specific work activities, and conduct of employees in their department. Department work rules may be more restrictive than City rules due to their specific operational requirements.

5.2 Ethics

At the City of Forest Grove, we believe in treating employees with respect and adhering to ethical and fair practices. We expect employees to avoid situations that might cause their personal interests to conflict with the interests of our organization or to compromise its reputation or integrity. Employees may not use their position as a public employee to gain a financial benefit, nor avoid a financial cost to themselves, their families, or their personal businesses if the opportunity is available only because of the position held by the employee. Employees who conduct themselves inappropriately or who create a detrimental impact on the City may be subject to corrective action up to and including termination.

Employees are responsible for carrying out their duties in a manner that contributes to a positive and productive work environment and further achieves the City's goals and objectives. Employee behavior should reflect favorably on the City and serve the public interest as opposed to individual interest.

Supervisors, managers, and Department Directors will have the added responsibility of providing leadership that makes such performance and conduct possible and holds employees accountable for their actions.

Conflict of Interest

Employees may not solicit, obtain, accept, or retain any personal benefit from any supplier, vendor, customer/client, or any individual or organization doing or seeking business with the City. This means you may not maintain an outside business or financial interest, or engage in any outside business or financial activity which conflicts with the interests of the City, or which interferes with your ability to fully perform your job responsibilities. For example, if your job responsibilities include purchasing, or someone is in a position to influence such purchases, the individuals should have no proprietary or financial interest in any business that furnishes products, materials, or service to the organization or in any related transaction. Nor may they benefit directly or indirectly from a third party who furnishes products, materials, or services to the organization.

Misrepresentation

As an employee, you should consider how you represent the City in your transactions and interactions. You should be careful not to misrepresent the City policies, practices, procedures, or misrepresent your status and authority to enter into agreements. You should also avoid using the City's name, likeness, facilities, assets, or other resources or using the authority of your position with the City for personal gain or private interests.

Gifts/ Gratuities

No employee may receive, give, pay, promise, or offer to our suppliers or agents anything of value, whether cash or any other property, for the purpose of securing or appearing to secure preferential treatment. This also includes any form of gratuity to or from employees of our suppliers or agents or members of their families.

In the event that you are offered a gift, gratuity, recognition item, or other item of personal benefit, you must notify your Department Director. If such offer does not violate the spirit of this policy, the employee may accept it on behalf of the City as long as the item may be used for the public good. In no event will the City accept any item whose value is determined to be in excess of fifty dollars (\$50.00).

Travel Awards

Travel awards including frequent flier miles, compensation for being displaced and related items accrued or earned by officials and employees on official City business are considered to be part of the salary and benefits to which such officials and employees are entitled as compensation. Officials and employees shall make decisions regarding travel arrangements and expenses in the best interest of the City rather than to maximize accrual of this benefit. Abuse of this benefit, including but not limited to influencing travel arrangements so as to maximize accrual of awards to the detriment of the City or public is prohibited and is cause for discipline. Employees shall be responsible for ensuring that this compensation is reported as income for tax purposes to the extent required by law.

Examples of travel awards are coupons, discounts, credit card rebates, frequent flyer miles, and tickets and vouchers for being bumped from an airline flight. Employees should be aware of provisions of the Oregon public employee ethics statutes (ORS 244.040). This statute prohibits a public employee from using or attempting to use his/her official position to receive a financial gain or avoid a financial detriment that would not be available but for the person's employment by a public agency.

Outside Employment

While employed with the City, you may not engage in outside employment that conflicts with the nature of the City's business, conducts business with the City, or otherwise interferes with your ability to perform according to established standards of performance and work rules. Also, you may not conduct business connected to outside employment during hours you are scheduled to work for the City.

Off-Duty Conduct

As a general rule, the City regards the off-duty activities of employees to be their own personal matter. However, there are certain types of off-duty activities that are of concern because of the potential negative impact on the City's reputation within the community we serve. For that reason, employees who either engage in or are associated with illegal or otherwise harmful conduct, the nature of which adversely affects the City or their own ability or credibility to carry out their employment responsibilities, may be subject to corrective action up to and including termination.

Solicitation and Bulletin Boards

In order to ensure that employees are not disturbed, interrupted or disrupted while at work, the City has established the following no solicitation policy:

- Individuals who are not employed at the City may not solicit our employees or distribute literature on City property at any time.
- If you wish to solicit or distribute literature to other employees by or on behalf of any individual, organization, club or society, you may do so only during times when you are on a break or lunch period. You may solicit or distribute literature only to those employees who are also on their break or lunch period. The distribution of literature in work areas is prohibited at all times, but you may place it in established break areas or lunchrooms.
- Certain types of material such as obscene, profane or inflammatory items and political advertisements or solicitations are strictly prohibited.
- You may not solicit, expect or accept contributions from vendors, clients or anyone doing business with the City.
- You may not sell merchandise or collect funds of any kind without prior approval from your Department Director.

The City bulletin boards keep you up to date and are used to post notices and information required by law. If you are covered by a collective bargaining agreement, there may also be union bulletin boards in your Department. Please refer to your collective bargaining agreement for additional details. City bulletin boards are to be used only for posting or distributing notices or announcements of a business nature that are equally applicable and of interest to employees or are directly concerned with City business.

Political Activities

City employees are entitled to exercise their rights to hold membership in or support a political party, to participate in political campaigns, to vote, and to privately express their opinions on political subjects or candidates. Any political activity is prohibited during the workday, this includes soliciting money, influence, service, or other things of value or otherwise aid or promote any of the following during working hours:

- Political committees; or
- Nomination or election of any person to public office; or
- Passage or defeat of any ballot measure.

Additionally, The City Council has determined that having an employee serving on or campaigning for the Council would unnecessarily create the appearance of conflict of interest, would create management difficulties in supervision, discipline and maintenance of confidentiality, and would cause governmental inefficiencies resulting from the above.

Therefore, employees are not permitted to be a candidate for, or serve on, the City Council.

5.3 Electronic Communications

The enhancement of external and internal communication through the use of electronic communication equipment is a goal of the City of Forest Grove. Electronic communication devices and systems include, but are not limited to: cell phones, desk phones, voice mail, smartphones, desktop and laptop computers, computer software, email systems, texting devices and the Internet. This policy outlines the City's expectations for employees regarding access, use and disclosure of information when using these communication systems.

All electronic communication devices purchased by the City of Forest Grove are considered property of the City, and employees shall have no expectation of privacy in connection with the transmission, receipt or storage of information on these devices. The City, within the bounds of current and future laws, reserves the right to review, audit, intercept, access and search these business systems at will, monitor data and messages within them at any time for any business-related reasons, and disclose selected contents without notice or other restriction. Personally owned electronic communication devices used by employees for City business may be subject to public records search in accordance with applicable laws and/or court orders. Additionally, all electronic communication devices used for City business are governed by the standards and practices set by the Oregon Government Ethics Commission.

This Electronic Communication Policy applies to all City of Forest Grove employees and their use of personally owned and/or City-provided electronic communication devices, computers, software and network systems during work hours. Inappropriate use of such equipment, including use that violates any code, law, regulation or policy set by the City of Forest Grove or outside regulatory bodies, or failure to comply with any part of this policy, may result in disciplinary action up to and including termination of employment.

Telephones, Smartphones and Voice Mail

The ability to make and receive telephone calls is an essential element of the services the City of Forest Grove provides to the public. The City's telephones, voice mail systems, and all other electronic communication devices are intended for official business only, but may be used incidentally for personal reasons in accordance with this policy. All calls on City-owned phones, including any personal calls allowed by City policy, and voicemail are subject to being monitored, accessed, retrieved or deleted without permission of the employee. This tracking may include the phone numbers of incoming and outgoing calls and text messages, as well as their duration.

The City of Forest Grove may provide cellular phones and/or smartphones to employees to facilitate City work. Smartphones include devices with traditional telephone functionality and additional features typically found on a desktop, laptop and/or tablet computer. These devices should not be used for an employee's personal convenience. All personal calls and/or texts should be brief and infrequent, and personal cell phones calls conducted away from work areas.

(a) *Use of City-provided Desk Phones, Cellular Phones and Smartphones*

The City does not prohibit personal use of the City phone system provided that the use is infrequent and brief. The City recognizes that employees occasionally have a need to talk to family members, schedule service technicians, confer with children's schools, and take care of a variety of other matters during "regular" working hours.

Personal long distance calls may only be made on City phones using a pre-paid calling card. No personal call resulting in a charge to the City may be made on City-owned phones, even if the employee reimburses the City for the cost.

(b) *Use of Personal Cellular Phones and Smartphones*

If approved by the employee's department director, personal electronic communication devices may remain on during work hours in vibrate or silent mode only unless employee has received authorization from their supervisor to have their phone on ring mode. However, based on individual work environment circumstances, department directors may prohibit employees from carrying personal electronic communication devices in the workplace.

(c) *Schedules/Appointment Calendars kept on Cellular Phones and Smartphones*

The City recognizes the benefit of keeping a comprehensive schedule on an electronic communication device that may include both work and personal appointments. However, employees who choose to combine work and personal calendars on a work-related electronic device acknowledge that these devices may be subject to record searches in accordance with applicable laws.

(d) *Personal Features on Cellular Phones and Smartphones*

The City also recognizes that employees may desire personal features such as web browsing, texting capabilities or access to social media sites on personal and/or City-owned devices during work hours. This type of access should be brief and infrequent, and must follow the "Use of City Network: Computers/Internet/Email" section that follows. Additionally, all devices that contain sensitive City data, or have applications that can access sensitive City data, should be kept locked when not in use. These devices must be equipped with a password or authentication system to unlock the device, and if possible, the data should also be password-protected in case the device is lost or stolen.

(e) *Loss, Theft or Damage to Cellular Phones*

If a City-owned smartphone is lost, stolen or broken, the department director will determine whether this occurred as a result of employee negligence when deciding if the City will replace the device. If a personally owned smartphone or cellular phone is lost, stolen or broken, the City will not replace the device, nor assist with replacement costs.

Use of City Network: Computers/Internet/Email

The City of Forest Grove's computer system is provided to assist employees in the performance of their job duties and is for authorized users only. The City has the ability to capture and store all data and email sent, received, placed or accessed on its computer network and related systems. Any message or communication sent through our systems is subject to the City's harassment, equal employment opportunity, workplace violence and non-solicitation policies. You are expected to carefully compose and review the wording, tone and content of your communications prior to transmission. Material that is fraudulent, harassing, embarrassing, sexually explicit, profane, obscene, intimidating, defamatory, or otherwise unlawful or inappropriate may not be sent by email or other form of electronic communication or displayed on or stored in City computers or other portable devices. If you encounter or receive this kind of material, you should immediately report it to your supervisor.

Use of the network without authority, or in excess of an employee's authority, is subject to monitoring by an authorized person or persons, including law enforcement. The City may take action related to inappropriate use of its network, without prior notice, if an employee is determined to have generated, sent or received such material.

Employees who access networks and computer systems administered by other agencies to perform their work are expected to comply with all usage policies of both the City of Forest Grove and of the agency administering the network or computer systems.

Personal Use of City Network: Computers/Internet/Email

The City does not prohibit personal use of the communication system (i.e., sending email over the Internet, accessing sites on the Internet, or typing a letter) provided that the use is infrequent and brief. The City recognizes that employees occasionally have a need to schedule service technicians, confer with children's schools, and take care of a variety of other matters during "regular" working hours. In today's electronic environment, use of electronic communication systems for these purposes may be more efficient. The City believes that personal use for these purposes during regular working hours is less disruptive than requiring employees to take formal breaks or leave work, provided that the use is brief, infrequent, and in compliance with the following guidelines and understandings.

Personal use of the City's computer system may not interfere with the employee's work, another employee's work, or have an undue impact on the network. Employees should have no expectation of privacy in connection with the transmission, receipt or storage of information, even if the computer is for approved personal use. Employees may not store personal files, folders, pictures, music or videos on the City's network systems and the City reserves the right to remove any personal items from the City's network systems without notice to the employee.

Employees are not prohibited from storing personal files or pictures on City-owned devices or desktop/laptop hard drives, but are discouraged from doing so for several reasons, including 1) all data on City-owned devices and networks is the property of the City and is discoverable under public records law; 2) any personal items stored on the employee's hard drive or City-owned device that are not in accordance with City policies contained in this handbook may subject the employee to corrective action; and 3) the City will not be responsible for recovering non-work related items that are lost.

The City's computers, email system and Internet connections may *NOT* be used to:

- Send email anonymously or without authorization.
- Send offensive messages ("Offensive" for the purposes of this Policy is broadly defined as containing information or images that would be considered inappropriate in the City workplace or that would contribute to creating a hostile work environment. Examples include, but are not limited to, content which could make others feel uncomfortable because of their treatment of topics involving gender, race, disabilities, or sexual matters.)
- Increase personal gain, do personal business, or support political ventures;
- Support charitable, religious or political activities or causes (other than City-approved activities).
- Play games, stream music or stream personal videos.
- Download or install new programs; this requires departmental and IT approval.

City equipment may not be used at any time to access inappropriate sites or to transmit or receive inappropriate information. Pornography, gambling and hate group sites are examples of inappropriate sites. Accessing these sites is a misuse of City property unless required by job responsibilities and explicitly authorized by supervisor (e.g. police detectives).

Use of Non-City (Personal) Computers/Tablets that are not covered by the City's stipend

Personal computer/tablet use in the workplace is permitted only:

- During an employee's lunch period.
- During an employee's break period.
- If authorized by the employee's supervisor for performing City work during work hours under the following conditions:
 1. The City will not compensate employee for lost, stolen or damaged device;
 2. The employee will not receive a stipend or other compensation for the device;
 3. IT staff will not support or troubleshoot problems with the device; and
 4. The employee understands that if their personal device is used for work-related purposes, it may be subject to public records disclosure laws.

City-owned, Stipend and Personal Cell Phone Use
In the Workplace

Type of Activity	City-owned Cell Phone	Personal Cell Phone (Covered by City Stipend)	Personal Cell Phone (Not covered by City Stipend) (Applies during work hours, which excludes break and lunch periods)
On during work hours?	Yes.	Yes.	Yes – in silent or vibrate mode unless otherwise authorized.
Personal calls?	Yes – away from work area so as not to disrupt others; and brief and infrequent at all times.	Yes – away from work area so as not to disrupt others; and brief and infrequent during work hours.	Yes – away from work area so as not to disrupt others and brief and infrequent.
Personal Web searches?	Yes – brief and infrequent at all times.	Yes – brief and infrequent during work hours.	Yes – brief and infrequent.
Social media?	Yes – work related.	Yes – work related during work hours; otherwise brief and infrequent.	Yes – brief and infrequent.
Texting?	Yes – work related.	Yes – Work related or brief and infrequent during work hours if personal.	Yes – brief and infrequent.
Work calendar/email sync?	Yes.	Yes.	With department director approval.
Install applications?	Yes – work related.	Yes – all.	Not Applicable.

NOTE: Based on individual work environments, supervisors shall have the ability to prohibit use of cellular phones for personal reasons during work time; and, if allowed, to determine if usage of such devices for personal reasons meets the “brief and infrequent” requirement. Employee’s productivity, efficiency and disruption to the work environment or other staff will be some factors supervisors will consider in making these determinations.

City-owned Desktop, Laptop and Tablet Computers

Personal Web searches?	Yes – brief and infrequent for information like maps, weather or phone numbers.
Install applications?	No – please contact IT for application installations.
File sharing?	No, unless approved by IT.
Streaming music and videos?	No, unless approved by IT.
Social Media?	Yes – Work-related and personal use on lunch or break time
Games?	No.
New programs/executable?	No. IT must install all new programs.

Approval is not required to download work-related documents in formats such as PDF or Word.

Information Sharing

Employees are not allowed to use code (e.g. “hack into”), access unauthorized files, or retrieve any stored information unless given clearance in advance by an authorized supervisor. City property or information that is confidential and/or proprietary cannot be shared with individuals outside the City without prior clearance from a department director. Any employee who leaves employment with the City is prohibited from taking or copying any City property or information unless specifically authorized in writing by their department director.

Information Technology Access Policy

Information technology includes but is not limited to: all individual computers, computing and electronic communication devices and services, telecommunication devices, email, networks, telephones (including cellular), voice mail, fax transmissions, video, multimedia, applications and instructional materials.

Access rights to information/data stored on City-owned equipment will be granted on an as-needed basis. Only those rights needed to accomplish tasks related to an employee’s job function will be granted. Authorized users of the City’s computer network include City employees and other individuals who are contracted to help support the City systems. Any other use is strictly prohibited.

Data of a confidential nature must be protected and must not be disclosed without authorization. Unauthorized access, manipulation, disclosure, or secondary release of such data/information constitutes a security breach. Failure on the part of an employee to take reasonable care to prevent such access may be grounds for disciplinary action up to and including termination of employment.

City of Forest Grove Information Technology (IT) staff is granted access to information technology resources to facilitate their job activities. However, IT staff agrees to abide by all relevant City of Forest Grove policies and procedures, as well as all current federal, state and local laws. These include but are not limited to: personnel policies and procedures related to harassment, plagiarism, commercial use, security, unethical conduct; and laws prohibiting theft, copyright and licensing infringement, unlawful intrusions and data privacy laws.

Information Technology staff is responsible for reviewing, understanding and complying with all policies, procedures and laws related to access, acceptable use and security of the City of Forest Grove information technology resources.

The City of Forest Grove recognizes the importance of preserving the privacy of users and data stored in information technology systems. Staff and third-party contractors must honor this principle by neither seeking to obtain unauthorized access to information technology systems, nor permitting or assisting others in doing the same. Furthermore, staff and third-party contractors must not make or attempt to make any deliberate, unauthorized changes to data on an information technology system. Staff must not intercept or attempt to intercept or access data communications not intended for that staff member, for example, by "promiscuous" network monitoring, running network sniffers, tapping phone or network lines, or any other means of intercepting data communications.

Even though the City reserves the right to retrieve and read any email messages, those messages are to be treated as confidential by other employees and accessed only by the intended recipient. We expect that employees will respect others' privacy and unless authorized to do so, will not retrieve or read electronic messages not intended for them. The use of passwords for security does not guarantee confidentiality. All passwords must be disclosed to your Department Director upon request.

There may be occasions when a user's data will need to be accessed without the user's permission. When these occasions arise the IT staff member must obtain written permission from the department director or city manager prior to accessing the data. Staff must not conceal their identity when using information technology systems, except when anonymous access is explicitly authorized. Staff is also prohibited from masquerading as or impersonating others, or otherwise using a false identity, unless expressly given permission from a supervisor for the purpose of performing official job duties, such as police department detectives.

Without specific authorization, staff may not remove or modify any City of Forest Grove owned or administered equipment or programs from information technology systems (e.g. City's network, servers, storage, cloud programs, etc.).

Off-site Information Technology Equipment and Data Use Policy

Information technology equipment and data includes but is not limited to: all individual computers, computing and telecommunication devices, telephones, City records and instructional materials.

Employees are required to obtain permission from their supervisor prior to taking computer equipment off-site. Department directors are responsible for knowing who within their respective departments has possession of any information technology equipment that is taken off-site.

If the equipment has been kept off-site for more than one month, and the equipment has been used on the Internet and/or files loaded or any external devices attached to the computer equipment, it shall not be reconnected to the City's network without first being examined by IT staff. This will allow IT to ensure virus and other updates are current on the equipment.

Employees are responsible for taking reasonable precautions against theft or damage to computer equipment. Data of a confidential nature must be protected and must not be disclosed without authorization. Confidential data or information should be transferred using a secure device that requires authentication to access. If possible, the data should also be encrypted. Unauthorized access, manipulation, disclosure, or secondary release of such data constitutes a security breach.

Software installations are to be performed by Information Technology (IT) staff only. Only software owned by the City and approved by IT staff shall be installed on City computers. Installation of personal software on any City-owned equipment is expressly prohibited.

Computer equipment may not be used to download, copy, or store any copyrighted software, publications, music, video, or other content without permission from the copyright holder. The City allows music and videos to be played from the DVD/CD player, but the music or video may not be copied to the computer or network.

Any theft or damage to computer equipment is to be reported immediately to the IT staff and your supervisor.

When computer equipment assigned to an employee is returned to the City, the user is required to notify his/her supervisor, and to send a "help desk ticket" to IT staff notifying them of the change of status of the computer equipment if it has been off site for more than thirty days.

Working from a Non-City Computer

Using a personal electronic device such as a smartphone, netbook, other mobile device, laptop or personal computer to access City electronic communications and documents for work may make the personal electronic device subject to a records search. Personal electronic devices should not be used for working directly on City documents without approval from your department director.

A thumb drive (also known as a flash drive, jump drive, pen drive or memory stick) used to transport electronic communication and documents for work on personal electronic devices may make the thumb drive subject to a records search.

No personal thumb drives should be used on City computers without approval from IT. Sending electronic communications or documents to a personal email account or other online account may make the email account or other online account subject to a records search.

Virtual Private Network (VPN)

When using the City's VPN (a secure Internet connection that connects outside computers to the City's network), no electronic work communication or documents should be downloaded to a personal device. If documents are downloaded to a personal device, this may subject the personal device to a records search. If work needs to be done on a local device outside of work, a City device should be borrowed after getting approval from your department director.

Even if an employee follows all City policies and does not download any documents to their device (personal computer, smartphone and any other electronic device) used to access the City's network or information, the employee's device may still be subject to a records search if required by public records law or by court order to confirm that no data was downloaded to the device.

Social Media (Facebook, Twitter, Texts or Other Social Networks)

1. City of Forest Grove employees must follow the City's policies when posting to blogs, wikis or any other form of user-generated media on behalf of the City. Information posted is public information.
2. Employees must obtain approval from their department director to post to social websites on behalf of the City.
3. Messages sent or received via social networking sites may fall under the public records law. Check with the City Recorder for records retention requirements.
4. Employees must follow copyright, fair use and public disclosure laws.
5. Employees may not post materials related to political activities, parties or candidates.
6. Employees may not provide or post confidential information. Permission must be obtained from the appropriate person or department before publishing information.
7. Members of the public and City vendors or contractors may not be referenced without their approval.
8. Any use of City equipment and/or time to post personal items or access social media sites for personal use shall be brief and infrequent. Department Directors shall have the authority to prohibit employees from accessing social media sites on City equipment and/or time if such use is deemed to be disruptive in the workplace and/or if an employee is deemed to have violated any part of the policies contained herein.
9. Employees must respect their audience and City policies when posting on behalf of the City. Employees may not use ethnic slurs, personal insults, obscenity, material that is harassing, defamatory, fraudulent or discriminatory; or engage in any conduct that violates City policies and/or would not be acceptable in the City's workplace.

Laws and Licenses Compliance

Users are required to comply with all software licenses, copyright laws, Oregon Government Ethics Commission guidelines, City policies and state and federal laws when using the City's computers, sending or receiving email or accessing or downloading information from the Internet.

Unauthorized duplication of copyrighted computer software violates the law and is contrary to the City's standards of conduct. Employees will not engage in nor make or use unauthorized software copies under any circumstances. Legally acquired software in sufficient quantities for all computers will be provided by the City's Information Technology staff to meet the legitimate software needs for City work. The City and its employees will comply with all license and purchase terms regulating the use of any software acquired or used.

Copyright infringement is an unlawful act. The City will maintain strong internal controls to prevent the making or using of unauthorized software copies. Compliance with software licenses and copyright laws is required.

System Security

All employees have a responsibility to take reasonable precautions to protect the City's computer system. Reasonable precautions include but are not limited to: updating anti-virus software when requested by IT, not allowing unauthorized access to the computer system and safeguarding the employee's password.

If an employee becomes aware of a virus or the threat of a virus, the employee should immediately contact IT with the information. Information Technology will evaluate the risk and, if warranted, notify all employees of the precautions that need to be taken.

Email as a Public Record

Under Oregon's public records law, most electronic mail messages created for business purposes are public records. Although some messages may not fall under the definition of public record, it is safest to assume all messages created could be considered public record. The only privacy an employee can expect is that afforded through disclosure exemptions. The privacy afforded government employees using government email systems is minimal and an employee should have no expectation of privacy. Email that does not meet the definition of a public record may still have to be released as part of litigation.

Public Access and Exemption from Disclosure

Email, like other forms of public records, must be made available to any member of the public upon request unless it falls within one of the specific exemptions described in the public records statute. A person need not demonstrate a "legitimate" need for public records to be entitled to inspect them.

The City requires that all public records requests be made in writing. A request form is available on the City's website. Please check with your supervisor or City Recorder if you have a question about whether an electronic mail message should be provided to the public.

Retention and Disposition

The retention of records stored in electronic records systems, including email systems, is governed by the City's retention schedule. No single retention period encompasses all email. Email is only a method of communication, so employees must evaluate each message to determine where it fits into the City's retention schedule. The City has adopted Oregon Administrative Rule 166-200, "City General Records Retention Schedule." The schedule is available online at http://arcweb.sos.state.or.us/rules/OARS_100/OAR_166/166_200.html. If you have a question about the retention of a message, please contact the City Recorder.

An email mailbox should not be used for long-term storage. If an email falls within the definition of a public record it should be kept with the appropriate file. Printed messages should include any attachments and all header information, i.e., time and date, routing information, etc. It is the responsibility of the holder of the official record to make sure the file is updated. For example:

- An updated records policy is emailed to all employees. It is the responsibility of the person sending the email to keep the record copy.
- A citizen calls and leaves a detailed message regarding a pending file. The receptionist forwards the message through the email system. It is the responsibility of the person receiving the message to add the message to the file.
- Email related to a current project or issue may be retained on the system as a reference tool. Once the project has been completed or the issue resolved, the employee should verify that all relevant email is in the file and then delete the email from their email account in accordance with the City's records retention policy.

Policy Compliance

Employees who violate any part of this Electronic Communication Policy may have email access, Internet and other privileges suspended, and may be subject to disciplinary action up to and including termination of employment.

5.4 Employment Recordkeeping

It is the City's policy to establish and maintain records of employment for employees in all organizational units consistent with State and Federal regulations.

Your employee records are property of the City and the City will determine contents. At a minimum, your employment record will contain legally mandated documents pertinent to pay, benefits, working conditions, performance, training and other terms and conditions of employment. A separate "confidential" file will be maintained to store medical, benefits, worker's compensation and other sensitive material, including background check information for applicable positions. Management of official employment records for employees of the City is centralized in Human Resources. Please contact the Human Resources Manager regarding employment records requests.

To the extent required for day-to-day management, your supervisor may keep files on employee training, performance plans, notes on counseling sessions, etc. This file is considered confidential and stored in a secure file. The Department file will not contain sensitive material, e.g. medical information. Performance management data, i.e. notes illustrating performance accomplishments or shortfalls, customer complaints or commendations, notations of verbal counseling sessions, etc. may be incorporated in the performance evaluation for the period to which it is applicable. Thereafter, it will be purged from the supervisor's desk file. Generally, discipline documents such as interview notes or other associated and relevant material will be sent to the Human Resources Manager upon disposition of the issue for review, retention or destruction as appropriate.

No material that can be considered derogatory may be placed in your personnel file unless you have been given an opportunity to read it and be advised it will be placed on file. You will be asked to sign and date the file copy to acknowledge receipt of the material. Your signature does not indicate concurrence with the information presented, merely that the employee has had an opportunity for review. You may prepare written comments regarding the information believed to be derogatory, incorrect or a misrepresentation of facts. Your comments will be included as part of the file and retained until the referenced document is destroyed.

To the extent there is a discrepancy between this policy and a collective bargaining agreement, the collective bargaining agreement will govern.

Your records are confidential and access shall be managed as set forth in law and by City policy. Contents of your record may be reviewed by you, your immediate supervisor, your Department Director and your designated representative. Authorized individuals should contact the Human Resources Manager in advance to arrange a review appointment. You have the right to review and receive copies of the records maintained.

Separated employees may request a copy of employee records for up to one year from the date of separation. The City may charge a reasonable fee to defray reproduction costs.

Recruiting supervisors of the City are allowed to review the employee record in conjunction with internal reference checking. Again, contact the Human Resources Manager to schedule an appointment for the review.

Your employee file contents will be minimally retained as provided for by laws governing retention of City government records, as they may be revised from time to time. The City may elect to extend the retention period. The current retention schedule is available from Human Resources.

Public access to employee records will be managed in accordance with State and Federal laws regarding the release of public information. All requests for employee data should be directed to the Human Resources Manager. Normally, Human Resources will confirm employment, dates worked, rate of pay and eligibility for rehire by telephone. This will frequently meet the needs of other employers or lending institutions. All other requests for data must be submitted in writing with an accompanying employee release. Absent the release, Human Resources will review the request and, if permissible by law, provide the information. Otherwise the request will be denied. The employee will be advised of the request and its disposition. Subpoenas will be honored consistent with law as confirmed by the City's legal counsel.

You must notify Human Resources in the event that you have a change in your name, marital status, address, telephone number, dependents, emergency contact, or any job related physical or other limitations which would impact your employment.

It is the City's policy to release only a current/former employee's position title, dates of employment, and salary range to outside agencies when conducting reference checks. If you wish the City to release any additional information, please contact Human Resources and complete a Reference Release form. The City will maintain this form in your personnel file.

5.5 Harassment

The City of Forest Grove recognizes that its strength lies in its employees. It is our policy that all employees have the right to work in an environment where the dignity of each individual is respected. For that reason, we expect all employees to conduct themselves in a manner that complies with our Harassment Policy. Any harassment of employees by fellow employees is not permitted, regardless of their working relationship or supervisory status. As an employer, the City encourages employees to report conduct that may violate our Harassment Policy so that concerns can be addressed and resolved as soon as possible.

The City will not tolerate conduct by any employee that harasses, disrupts, or interferes with another's work performance or which creates an intimidating, offensive, or hostile environment. We desire to maintain a working environment free from all forms of harassment, whether based upon race, color, religion, ancestry, national origin, age, marital or family status, veteran status, sexual orientation, physical or mental disabilities, on-the-job injuries, sex, or any other legally protected characteristic or status.

Behavior such as telling ethnic jokes, making religious slurs, using offensive "slang" or other derogatory terms denoting a person's race, age, national origin, disability, or mimicking one's speech, accent or disability, are examples of prohibited conduct and will not be tolerated. Employees are also prohibited from retaliating against anyone who complains about harassment or cooperates in a harassment investigation.

While all forms of harassment are prohibited, it is our policy to emphasize that sexual harassment is specifically prohibited. As a starting point, it is important for employees to understand what kind of conduct is prohibited "sexual harassment". Under the law sexual harassment includes any unwelcome sexual advances, requests for sexual favors or other verbal/physical conduct of a sexual or gender-based nature when:

- Submission to such conduct is explicitly or implicitly made a term or condition of employment; OR
- Submission to or rejection of such conduct is used as the basis for making an employment decision; OR
- Such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive work environment. (EEOC Guidelines issued 1980).

The first requirement in determining whether sexual harassment has occurred is that the behavior in question must be based on gender. The behavior may or may not be sexual in nature. The types of conduct which qualify as sexual in nature take a wide variety of forms, ranging from overt serious harassment, such as sexual assaults, rapes and propositioning, to insulting gender-related comments to subtle harassment such as complimenting an employee on his/her physical appearance and flirting.

Between these extremes, virtually any type of conduct that is sexual or gender-based in nature can become a form of prohibited sexual harassment. However, the most common forms of sexual harassment include:

- Dirty jokes;
- Sexual innuendoes;
- Talking about your sex life;
- Sexual gestures;
- Displaying calendars or printed materials of a sexual nature;
- Making offensive or stereotypical comments about members of one sex or the other;
- Making derogatory comments about sexual orientation or gender identity;
- Using E-mail or other City communication systems to transmit information of a sexual nature;
- Sexual touching, including any type of contact with intimate body parts;
- Making graphic comments about another employee's physical attributes; and
- Making any type of comment that is sexual or gender-based in nature.

Even if this type of conduct occurs between employees off duty, it should be reported if it is offensive to you. This is because sexually offensive conduct that occurs between employees off the job may "carry over" to the job environment.

Similarly, if a non-employee subjects you to this type of conduct during your working time and it is offensive to you, please report it. We will investigate during your working time and address sexual harassment concerns regardless of who is engaging in the reported behavior.

The second requirement is that the conduct in question must be "unwelcome" to you. Often a person can stop sexually offensive conduct (dirty jokes, sexual comments, etc.) by simply telling the person who is engaging in this behavior that it is offensive and requesting that they stop. We encourage you to take this approach, if it is comfortable to you. However, no employee is required to complain directly to the offending employee. If you are more comfortable reporting the offensive conduct to your supervisor, department director or the Human Resources Manager, you may go directly to any of them.

As a practical matter, employees have a wide range of sensitivity levels . . . what one person considers offensive, another may not consider offensive. The best approach for any employee is to assume that sexual conduct, whether physical, verbal or otherwise, is likely to be offensive to someone. It is not necessary that the offensive conduct be directed at the particular person who raises a complaint. Often sexual harassment claims arise from one person overhearing or overseeing something not intended for them. The "bottom line" is that if you engage in this type

of behavior you assume the risk that someone will be offended. Consequently, you assume the risk of being disciplined or discharged for violating the City's Harassment Policy.

It is your responsibility to act in a manner that is consistent with our harassment policy. This includes any messages or communications sent or received through our electronic communication systems. The use of information systems (including e-mail, Internet, Intranet) for the display or transmission of sexually explicit images, messages, off-color jokes, or anything that may be construed as harassment or showing disrespect for others, is prohibited.

It is your second responsibility to report conduct that you believe violates our Harassment Policy. If you are subjected to any type of harassment by an employee or anyone you come into contact with through your job or you have observed behavior or overheard comments that raise concerns regarding compliance with this policy, you should promptly contact either of the following people:

- Your supervisor;
- Your Department Director; or
- The Human Resources Manager.

We encourage employees to report claims and work with us to informally resolve problems involving harassment. Our ability to resolve these kinds of problems is dependent on your cooperation in reporting incidents that create an offensive work environment for you. We believe that all our employees have an affirmative obligation to promptly report harassment.

In the event an incident or complaint is reported, an investigation will be undertaken immediately. Investigations will be kept confidential to the extent we determine confidentiality can be maintained while allowing us to comply with our obligations. If you are not satisfied with the handling of a complaint or the action taken, you should bring the complaint to the next higher level of authority. Violators will be subject to appropriate disciplinary or other corrective action. Each manager/supervisor has the responsibility to maintain the workplace free from any form of harassment.

It is also important for you to understand that the City respects the right of its employees to raise harassment concerns and participate in investigations. We do not allow supervisors, managers or employees to retaliate against employees who report harassment or cooperate with investigations. "Retaliation" is broadly construed and includes conduct such as giving an employee the cold shoulder, changing their duties, treating an employee rudely, etc. In short, we expect all employees to respect the right of other employees to raise harassment concerns and cooperate with investigations. By doing so you will help us resolve such concerns at an informal level.

Any employee who feels they have been retaliated against should promptly bring complaints or concerns about retaliation to their supervisor, Department Director, or the Human Resources Manager. These types of complaints will also be immediately investigated and violators will be subject to appropriate disciplinary or other corrective action.

5.6 Substance Abuse

General Provisions

The City is committed to establishing and maintaining a work place free from the effects of alcohol or drug use and abuse. In support of this policy, the City's drug-free awareness program provides employees information about the dangers of alcohol and drug abuse. City employees may also have access to dependency and rehabilitation counseling through City employee benefits programs.

It is a condition of employment with the City that all employees work drug and alcohol free. Employees must report any violations occurring on City premises or off City premises while conducting City business. A report of a criminal drug statute conviction must be made to your Department Director and the Human Resources Manager within five (5) days after the conviction. (This requirement is mandated by the Drug Free Workplace Act of 1988.) Employees are expected to report any suspected violations of this policy to their Supervisor.

The City recognizes drug and alcohol use may escalate to a serious illness and will provide reasonable support to employees who are working to overcome their dependence. Employees suffering from alcohol and/or drug dependency or abuse are encouraged to seek substance abuse counseling and rehabilitation through the employee assistance program or health plan providers. All treatment information is confidential. The employee's voluntary disclosure of treatment will not be the impetus for corrective action nor will it absolve the employee from discipline if disclosed after the discipline process has commenced.

A City employee may not knowingly possess, use, transfer, offer, share, attempt to sell or obtain, manufacture, or be under the influence of drugs or alcohol or the metabolite of the substance in any situation during which the employee is engaged in a job-related activity including, but not limited to, the following situations:

- While on or in City property, including but not limited to buildings, parking lots, or City leased or rented space;
- Driving or a passenger riding in any vehicle or equipment used to facilitate or conduct City business; and
- In any other circumstance in which the safety of employees, customers, clients, or the public at large; or the productivity, quality of work products or services, or security of property or information can be impacted.

Drug and alcohol possession or use of the metabolite of such substances are prohibited during any hours during which the employees are engaged in or conducting City business regardless of whether such time falls within normal work hours or the work week. This includes but is not limited to time off-duty when wearing a City uniform, or in conjunction with City-authorized activities except where the City Manager has authorized the moderate consumption of alcoholic beverages.

A City employee may not possess on City premises, in City vehicles or when otherwise representing the City any alcohol containers (e.g., cans, bottles, etc.) or drug paraphernalia. "Drug paraphernalia" means equipment, products, and materials of any kind that are marketed,

designed for use, or used in connection with anything from the planting to the manufacturing, packaging, selling, concealing, or introducing into the body any illegal drug. City maintenance employees will not be in violation of this policy for clean-up and disposal of such material discarded by others.

Violations of this policy may result in corrective action up to and including termination and may result in legal charges.

The City reserves the right to inspect or search any employee's personal property on City premises, including City-owned parking structures and parking facilities, if the employee is reasonably suspected of having violated this policy. Employees do not have an expectation of privacy as to City premises. City areas subject to search include, but are not limited to desks, file cabinets, lockers and offices spaces, whether or not the employee is afforded the ability to lock such spaces. All City employees are deemed to consent to a search made under this policy. Refusal to cooperate in any such inspection or investigation may result in corrective action up to and including termination.

All City employees called to work in an emergency must notify the duty supervisor of alcohol consumption, ingestion of prescription or other drugs, or the metabolite of such substances, during off duty hours that result in substance presence in their systems when called to work. The supervisor will determine the individual's suitability for work. If approved by the supervisor to work, assignments may be off the front-line, administrative in nature as to free other employees for the safety-sensitive assignments. A Public Safety employee authorized to work will not be deemed to have violated this policy.

The Chief of Police or designee may suspend any or all of the provisions of this Policy as required to accommodate an on-going investigation, or other authorized police activity. Officers party to such an investigation must secure policy suspension authorization in advance of the anticipated consumption.

Prescription medication or other therapeutic substances authorized for use in emergency medical care or storage in City facilities are exempted from this Policy.

Definitions

Drug: substance(s) considered unlawful under Drug-Free Workplace Act of 1988 or the metabolite of the substance including but not limited to marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP) and:

- Prescription or non-prescription drugs which may impair judgment or job performance.
- Drugs which may be illegal to use when not prescribed by a physician and shared prescription drugs for which the employee is not the patient.
- Prescription drugs which are prohibited are those which have either not been prescribed for the employee to treat an existing circumstance or those which, although prescribed for the employee, may impact the individual's ability to function safely at work and have not been brought to the attention of the employees' immediate supervisor. Drugs for personal health management for which side effects are not the norm, e.g. vitamins, birth control pills, etc., need not be disclosed if in fact no side effects are experienced. However, the employee is

responsible for updating the supervisor if drug reaction varies from the norm and has the potential for impacting workplace performance.

Alcohol: ethanol, isopropanol, or methanol;

Drug Testing: checking for drug or alcohol use;

Conditional employment offer: delivering an invitation to work for the City which conditions acceptance upon a negative drug test;

Random: scientifically valid method of selecting employees for drug testing that ensures all covered employees have an equal chance of being chosen;

Reasonable suspicion: noticeable behavior or appearance that would lead a reasonable person to suspect drug or alcohol use or other activities prohibited by this policy that would warrant drug testing, work place search, EAP referral or all of the preceding. Reasonable suspicion testing must be accompanied by identifiable conditions including but not limited to: unkempt or disheveled appearance, staggering, slurred speech, odor of alcohol or other controlled substance emanating from the employee or inadequate or inappropriate work performance.

Sample: urine or breath specimen obtained from the person being tested.

Required Testing

The City may require the collection and testing of a sample of an employee's or prospective employee's urine or breath for any job-related purpose consistent with business necessity and the terms of this policy, including:

Pre-employment.

Pre-employment drug tests are conducted on applicants if warranted by their position or required by state or federal law after a conditional employment offer has been made.

Reasonable Suspicion.

Reasonable suspicion drug and alcohol tests may be performed if there is evidence that would lead a reasonable person to suspect that the employee's ability to perform job functions is impaired or that the employee is otherwise engaged in the unlawful behavior defined in law or Policy. The employee will be given the opportunity to offer an alternate explanation if behavior triggers suspicion; however, the City reserves the right to determine whether reasonable suspicion exists. Only supervisors trained in the signs and symptoms of drug and alcohol use may order reasonable suspicion testing.

Post-accident.

Any accident in the workplace involving a City employee performing City business or driving a City vehicle may also be considered as constituting reasonable suspicion for testing.

City employees holding a Commercial Driver's Licenses (CDL), as required for their work activity, shall be subject to random drug and alcohol testing as mandated by the U.S. Department of Transportation (USDOT).

In addition to tests required of this section the City may require employees or groups of employees to undergo drug testing on a random or chance basis. For represented employees, this provision shall be subject to advanced bargaining with the union.

Employees shall notify the supervisor immediately upon beginning work when taking any medication (prescription or non-prescription) or other drugs which may interfere with performance and/or cause a safety hazard in operating City vehicles or equipment. The supervisor will keep such information confidential to the extent possible. Management, Human Resources or other appropriate parties may be consulted for guidance on leave and/or other employment concerns.

The City will arrange and pay for the cost of testing. Sample collection shall be performed in a manner that guarantees the individual's privacy to the maximum extent consistent with ensuring that the sample is not contaminated, adulterated, or incorrectly identified.

A USDOT drug test conducted under this Policy shall be considered to have yielded a positive result if the test establishes the presence of the drug at levels equal to or greater than the cutoff level prescribed by applicable legislation. Testing not subject to USDOT provisions shall be managed in accordance with cut off levels established by the U.S. Department of Health and Human Services for on-site testing.

The City shall normally schedule a drug test or an alcohol impairment test of employees during, or immediately before or after, a regular work period. A supervisor shall accompany the employee to the test site. If necessary, a family member will be contacted to escort the employee home or another employee will do the same to insure the safe transportation of the employee.

Alcohol or drug testing required by the City is considered to be work time for the purposes of compensation and benefits for current employees.

Upon request, the employee has the right to obtain the written test results and the City will comply within five days after receipt of the written request, so long as the written request is made within six months after the date of the test.

An employee shall have the opportunity to explain a positive result in a confidential setting before the City takes adverse employment action.

A communication received by the City relevant to drug test or alcohol impairment test results and received through the City's testing program is a confidential and privileged communication and may not be disclosed except:

- To the tested employee, prospective employee or another person designated in writing by the employee or prospective employee;
- To individuals designated by the City to receive and evaluate test results or hear the explanation of the employee or prospective employee; or
- As ordered by a court or governmental agency.

5.7 Vehicle Usage and Safety

The purpose of this policy is to ensure that employees and volunteers who drive on City business or as part of their regularly assigned job duties are properly licensed and maintain an acceptable driving record; and to provide guidance on the proper use of vehicles with the goal of preventing accidents and injuries. Vehicle crashes are costly to the City, but more importantly, they may result in injury to employees or members of the public. It is the driver's responsibility to operate the vehicle in a safe manner and to drive defensively to prevent injuries and property damage. The City expects each driver to drive in a safe and courteous manner pursuant to the Driver Safety Rules section of this administrative procedure. The attitude employees take when behind the wheel is the single most important factor in driving safely.

The Human Resources Manager is responsible for general administration of this policy including verifying the validity and history of employees' driving records and verifying job applicants and employees meet driving record standards established by this policy.

The City Risk Manager is responsible for the overall administration of the City's risk management program.

Applicability

This policy applies to all City employees, volunteers, and elected officials who drive as part of their official duties and responsibilities as an employee of the City. Police and Fire employees should also refer to Department specific rules and regulations regarding vehicle use related to their specific responsibilities and driving environment/ conditions. Departments with employees who are required to possess Commercial Driving Licenses (CDL's) are required to verify and monitor the endorsement qualifications to ensure compliance with legal requirements.

Vehicle Safety Committee

The Vehicle Safety Committee is comprised of the Human Resources Manager and a minimum of one additional Department Director appointed by the City Manager. The committee is responsible for:

- Reviewing crashes and the City's overall driver safety record to determine if there should be changes in policy or procedure; or if other corrective action (such as training, equipment changes, etc.) should be implemented to enhance the safe operation of City vehicles and/or personal vehicles on City business.
- Reviewing driving records of employees and making recommendations to Department Directors when persons should be disqualified from driving City vehicles and/or using personal vehicles for City business.
- Reviewing all other issues that arise with respect to compliance with this policy including providing an annual update to Department Directors.

City Risk Manager

The City Risk Manager will receive copies of all recommendations contained in reports forwarded by the Vehicle Safety Committee to Department Directors. It is the City Risk Manager's role to evaluate compliance with recommendations forwarded by the Vehicle Safety Committee. Additionally, the City Risk Manager may consult directly with the Department

Director and/or the City Manager regarding the loss experience, recommendations, or any other issue that has the potential to result in future loss exposure to the City.

Driver Guidelines and Reporting Requirements

City vehicles are to be driven by authorized persons only, except in the case of repair testing by a mechanic or other authorized agent of the City.

Any employee who has a driver's license revoked or suspended shall immediately notify their supervisor the next business day and *immediately discontinue operation of the City vehicle*. Failure to do so may result in corrective action, including termination of employment.

All crashes in City vehicles, regardless of severity, must be reported to the police in the jurisdiction where the crash occurs and to the employee's immediate supervisor. Crashes are to be reported immediately (from the scene, during the same day, or as soon as practicable if immediate or same day reporting is not possible). Crashes in personal vehicles while on City business *must* follow these same crash procedures. Crashes involving the employee's personal injury must be reported to Human Resources for Worker's Compensation purposes. Failing to stop after a crash and/or failure to report a crash may result in corrective action, up to and including termination of employment.

Drivers must report all ticket convictions received and/or no contest pleas made during the operation of a City vehicle, or while driving a personal vehicle on City business, within 72 hours to their supervisor. Employees are personally responsible for all fines imposed due to convictions and/or no contest pleas.

Motor Vehicle Records will be obtained on all drivers prior to employment and on an ongoing basis if an employee's driving record posts a conviction, crash, and/or suspension. A driving record that is considered by the Vehicle Safety Committee to be in violation of the intent of this policy will result in a loss of the privilege of driving a City vehicle.

City business is defined as driving at the request, or for the benefit, of employer. It does not include normal commuting to and from work.

Driver Criteria & Administration

Employees must have a valid and current Driver's license to operate a City vehicle or a personal vehicle with current auto insurance while on City business.

Employees are expected to drive in a safe and responsible manner and to maintain a good driving record. The Vehicle Safety Committee is responsible for reviewing records, including crashes, moving violations, etc., to determine if an employee's driving record indicates a pattern of unsafe or irresponsible driving, and to make a recommendation to Department Directors for disqualification of City vehicle driving privileges.

All employees who drive vehicles as a part of their employment will have their driving records monitored in compliance with the Department of Motor Vehicles, State of Oregon automated reporting system (A.R.S.).

Criteria that may indicate an unacceptable record includes, but is not limited to:

- Three or more minor moving violations within a three-year period.
- Two or more chargeable crashes within a three-year period. Chargeable means that the driver is determined to be the primary cause of the crash through speeding, inattention, etc. Contributing factors, such as weather or mechanical problems, will be taken into consideration. Any citation issued at the site of a crash will be considered a single incident.
- Any combination of crashes and/or moving violations based on the Driver Screening Guidelines.
- Suspension of Driver's License.

Violations include any ticket, charge, or other law enforcement proceeding relating to these, as well as independent evidence of violations.

If an employee is required to drive as part of their regularly assigned job duties and their driver's license becomes invalid or their driving record becomes unacceptable, the employee may be subject to disciplinary/corrective action as provided by the applicable collective bargaining agreement or the current City of Forest Grove Employee Handbook.

Driver Screening Guidelines

This information is intended to provide guidance for screening and approving City drivers. The Vehicle Safety Committee will take into account the particular job responsibilities of the position, the driving history of the employee, and the potential future exposure to the City.

Types of driving violations listed by risk category, are as follows:

Class 1 – Major Violations

- DWI/ DUI
- Refusing a substance test
- Fleeting or eluding a police officer
- Commission of a vehicular felony
- Vehicular manslaughter
- Hit and run
- Reckless driving
- Drag/ street racing

Class 2 – Crashes

- Crashes regardless of fault

Class 3 – Minor Violations

- Speeding
- Failure to yield
- Improper lane change
- Running red light or stop sign
- Suspension of driver's license
- Various moving violations

Driver Safety Rules

The use of a City vehicle while under the influence of intoxicants and other drugs (which could impair driving ability) is forbidden and is sufficient cause for discipline, up to and including termination of employment.

No driver should operate a City vehicle when his/her ability to do so safely has been impaired by illness, fatigue, injury, or prescription medication.

All drivers and passengers operating or riding in a City vehicle *must* wear seat belts, even if air bags are available.

Drivers are responsible for the security of City vehicles assigned to them. Unless explicitly authorized by the employee's supervisor (e.g. Emergency Vehicles in Fire Department), the vehicle engine must be shut off, ignition keys removed, and vehicle doors locked whenever the vehicle is left unattended.

The use of head lights and/or driving lights is encouraged at all times, or during inclement weather or at anytime when a distance of 500 feet ahead of the vehicle cannot be clearly seen. Emergency vehicles may be exempted due to Departmental operating policies.

All State and Local laws must be obeyed, including relevant Oregon Revised Statutes (ORS) Traffic Codes.

Mobile Communication Devices

The City promotes safe driving practices to prevent motor vehicle crashes due to the use of Mobile Communication Devices (MCDs) while driving. A mobile communication device is defined as a cellular phone, text messaging device or wireless two-way communication device designed to receive and transmit voice or text communication. Employees who drive City vehicles or who drive personal vehicles while conducting City business must comply with all federal and state laws that govern the use of MCDs while driving. The City encourages drivers to keep MCD use at a minimum while their vehicle is in motion and to always use a hands-free accessory if he or she absolutely must utilize an MCD while driving. If doing so, please follow these recommendations:

- Familiarize yourself with the device features for easy dialing.
- Place your hands-free device in an accessible location, preferably in a fixed holder in front of you.
- Keep your conversations short.
- Inform the person on the phone that you are speaking from the car.
- Avoid conversations that involve concentration. If you must engage in a conversation that demands your concentration, pull to the side of the road and stop your vehicle in a safe place.
- Avoid or terminate stressful or emotional calls while driving.
- Avoid using MCDs in unsafe or high risk situations while driving, e.g., construction sites, near heavy machinery, school zones, areas of greater foot traffic, etc.

- Never look up phone numbers while driving.
- Never use an MCD in adverse weather or in difficult traffic conditions.

Departments engaged in public safety operations are responsible for developing and enforcing departmental work rules related to the use of MCDs while driving and shall provide clear expectations for safe approved use.

Calls for emergency help, reporting illegal activity or to prevent injury to people or property are allowed if no other person in the vehicle is capable of doing so, but drivers shall make every effort to safely park the vehicle if possible before making such calls.

Employees who use two-way radios are permitted to monitor the radio and to briefly respond. If a longer response is needed, the driver is expected to park the vehicle before making the call.

Crash Procedures

In an attempt to minimize the results of a crash, the driver must prevent further damages or injuries and obtain all pertinent information and report it accurately.

Call for medical aid if necessary.

Call the police. All crashes, regardless of severity, must be reported to the police. If the driver cannot get to a phone, he/she should write a note giving location to a reliable appearing motorist and ask him to notify the police.

Record names and addresses of driver, witnesses, and occupants of the other vehicles and any medical personnel who may arrive at the scene.

Do not discuss the crash with anyone at the scene except the police. Do not accept any responsibility for the crash. Do not argue with anyone.

Provide the other party with your name, address, driver's license number, and insurance information.

Immediately report the crash to your supervisor. Provide a copy of the crash report and/or your written description of the crash to the City Risk Manager.

There will be a formal crash review conducted on each crash to determine cause and how the crash could have been prevented.

General Rules and Regulations for the Use of City Vehicles

Vehicle Priority

#1 – 24-Hour assigned vehicle

#2 - Used during work day

#3 - Pool vehicle

A vehicle assigned to an employee under priority #1 may be used for personal transportation only as specifically defined in the *Personal Use, Passengers & Authorized Drivers of City Vehicles* section at the end of this policy.

An employee to whom a 24-hour vehicle is assigned shall be fully responsible for the coordination of general maintenance and proper care of the vehicle.

The vehicle color, factory options and equipment are standardized and shall not be altered, except as authorized by the City.

It is the responsibility of the assigned driver to inform the Office Manager for Administrative Services of any pool vehicle maintenance needs or safety problems they become aware of.

Employees shall drive vehicles with reasonable prudence to conserve fuel and sustain them at the highest operating efficiency.

Employees to whom a 24-hour assigned vehicle is issued will be held accountable for maintaining proper fluid levels and tire air pressure, present the vehicle for repair, service, or adjustment whenever such is needed, and preventative maintenance when time is due.

City vehicles are provided to eligible employees to enable them to efficiently perform their job functions for the City. They are not intended to be fringe benefit items.

No employee will be allowed the use of a City vehicle and/or fuel credit card for their personal use or gain.

No vehicle will be used for transporting any bulk material that protrudes from trunk/cargo area or interior compartment without properly securing based on the loading requirements.

Assigned City fuel credit cards are to be used for fuel and/or required maintenance products only, and for the assigned vehicle only, unless otherwise authorized by their supervisor. Employees are to use the self-service fuel island and to use regular unleaded gas only, unless otherwise specified. Department Directors may authorize the use of personal vehicles and reimburse fuel expenses at a rate established by the City Manager.

City vehicles must not be taken out of the State of Oregon without prior supervisor approval.

Copies of the Vehicle Registration, a Copy of the Insurance Card, and a Vehicle Crash Report Packet must be kept in the vehicle at all times.

Use of Pool Vehicles

The City will maintain a small pool of vehicles which may be used by employees for travel on City business.

City Vehicles should be reserved and are available on a first-come, first-served basis. Out-of-town travel receives priority if a conflict exists.

The pool vehicles are to be used only for City business. When the pool vehicles are not in use, they are to be left at their assigned location. Pool vehicles are not to be taken home at night unless authorized by prior supervisory approval.

Assigned City fuel credit cards are to be used only with the assigned pool vehicle.

Pool vehicles are to be left with no less than a half a tank of fuel when returned.

Pool vehicles are meant to be used in place of a personal vehicle for business trips.

Pool vehicles are to be kept clean. Trash should not be left in the pool vehicles.

Smoking is not allowed in any City vehicles.

Personal Automobiles

The City's insurance coverage only extends to the City for liability that may arise as a result of a crash in excess of your personal auto insurance while a personal automobile is being used by the employee for official City business. Damage to employee-owned personal autos (including an employee's personal auto deductible), as well as injury to passengers and/or third parties, are the responsibility of the employee. Employees who use personal vehicles for City business must maintain all insurances required under State law.

Those employees who occasionally use their personal vehicle for City business will be reimbursed on a mileage basis pursuant to the current Federal Government reimbursement rate. Reimbursed mileage is defined as mileage driven over and above the employee's normal commuting mileage.

Personal Use, Passengers, & Authorized Drivers of City Vehicles

The use of a City-owned auto must be within the course and scope of an employee's employment. Personal use of City-owned vehicles is not allowed unless the employee has an emergency response role and is on call at the time of use. Any liability that may result from the personal use of a City-owned auto outside the course and scope of employment is the sole responsibility of the employee.

City vehicles are to be driven by authorized employees only, or in case of repair testing, by a mechanic. Spouses, other family members, or other non-employees, are not authorized to drive City vehicles.

Passengers are normally limited to those individuals who need to ride in the vehicle to conduct City business, or as approved by the Department Director.

5.8 Workplace Violence

The City understands the importance of a safe and secure environment for its employees and recognizes the need to create a violence-free workplace for both its employees and the public. This policy is intended to prevent workplace violence from occurring and therefore describes prohibited conduct, warning signs identified with potentially violent behavior, procedures for reporting violations of this policy, and other pertinent information that is necessary to help deter violence in the workplace.

The City has a “zero tolerance” policy for any actions that threaten its employees or customers in the workplace. All violent behavior is considered inappropriate in the workplace, on both the part of employees and customers, and will not be tolerated. Violence, as defined by this policy is strictly and specifically prohibited by the City. No existing policy, practice, or procedure should be interpreted to prohibit decisions designed to prevent a threat from being carried out, a violent act from occurring or a life threatening situation from developing.

The policy applies to all departments of the City with respect to the conduct of all employees. For the purpose of this policy ‘employees’ of the City includes volunteers in all departments of the City, while independent contractors and community service workers are excluded.

Weapons in the Workplace

Bringing a deadly weapon to the workplace or carrying a deadly weapon while at work is strictly prohibited. For the purpose of this policy, “workplace” is defined as the facility where an individual is working and the parking lot where employees are designated to park their cars. This prohibition does not apply to persons authorized to carry weapons as part of their job responsibility, such as police officers and specifically identified persons within the fire department. For the purpose of this policy, “deadly weapon” means a device, instrument or object that is specifically designed for causing death or serious physical injury. The prohibition applies to employees who have a concealed weapon permit. Under no circumstances shall an individual who has not already been exempt from the prohibition have a weapon stored in a City-owned vehicle or facility. The prohibition does not apply to personal defense devices, such as personal attack alarms, nor to chemical defense sprays, such as mace.

Reporting

All employees are responsible for notifying their supervisor if they become aware of any threat or violent act in the workplace or on City property. An incident assessment report should be completed by the supervisor or the Human Resources Manager upon notification that such an incident has occurred. Under some circumstances, the Police Department may be informed of the contents of a report for the safety and well-being of employees.

Confidentiality

While the City cannot promise complete confidentiality due to the need to investigate, information about any complaint will be treated as confidentially as possible, consistent with proper investigation and responsive action. Generally, this means confidential information will be shared on a need-to-know basis.

Police Intervention

Since members of the Police Department are employees of the City, it is pertinent to outline when they are to be involved in any situation that might arise. The role of the Police is to enforce the law, and they will be asked to intercede in situations when a law may be broken, or if an employee feels it is necessary to contact them concerning their safety on the job. Where criminal wrongdoing is apparent, the matter will be reported to the Police Department.

Domestic Violence

Incidents of domestic violence at work shall be reported and investigated the same as other violent incidents. The City may become involved and take action if or when there is violent behavior which takes place while the employee is on the job or at the workplace.

Restraining Order

All individuals who apply for or obtain a protective or restraining order which lists their place of work or makes a reference to a person not being within a certain yardage of the employee are encouraged to inform their supervisor so as to assist in eliminating any chance of this person causing them or any fellow employees harm at the workplace.

Searches

The City reserves the right to search any property owned by the City when there are reasonable grounds. For the purpose of this policy, "reasonable grounds" includes when the City has reasons for suspecting that the search will turn up evidence that the employee is in violation of this policy. Therefore, employees should have no expectation of privacy concerning City property, i.e. desks and lockers. This is for the welfare and well being of City employees and to prevent any unauthorized persons from bringing a deadly weapon into the workplace.

Workplace Violence Defined

For the purpose of this policy, 'workplace violence' is defined as any act of physical, verbal, or written aggression by an individual or by a group, that occurs in the workplace or arises out of work activities. This includes any and all infliction of bodily injury or the attempt to make harmful physical contact, verbal and physical harassment, verbal and physical threats, and any actions that cause others to feel unsafe in the workplace.

Warning Signs of Potentially Violent Individuals

There is no exact method to predict when a person will become violent. One or more of these warning signs may be displayed before a person becomes violent but does not necessarily indicate that an individual will become violent. A display of these signs should trigger concern as they are usually exhibited by people experiencing problems. The signs are not limited to the following:

- Irrational beliefs and ideas
- Displays of unwarranted anger
- Verbal, nonverbal or written threats or intimidation
- New or increased source of stress at home or work
- Fascination with weaponry and/or acts of violence
- Inability to take criticism
- Feelings of being victimized
- Expressions of a plan to hurt oneself or others
- Intoxication from alcohol or other substances
- Externalization of blame
- Unreciprocated romantic obsession
- Expressions of hopelessness or heightened anxiety
- Taking up much of supervisor's time with behavior or performance problems
- Violence towards inanimate objects

- Productivity and/or attendance problems
- Reaction of fear among co-workers or clients
- Stealing or sabotaging projects or equipment
- Drastic change in belief systems
- Lack of concern for the safety of others

Categories of Workplace Violence

Violence by “strangers”: This type of violence is committed by a person who is a “stranger” to the workplace and the persons working there; a person who enters the facilities with the purpose of committing a robbery or other violent acts, such as rape or murder.

Violence by “customers or clients”: This type of violence is committed by a person who is either the recipient, or the object, of a service provided by the workplace or the victim.

Violence by “co-workers”: This type of violence is committed by a person who has a work-relationship with the workplace. This designation includes employees, supervisors, and managers. This could result from a corrective action, unsatisfactory review, unfavorable grievance resolution, denied promotion, or contract negotiations. In addition, the violent act could be due to the individual’s thoughts and feelings that are going on inside which may not necessarily be related to anything in the external world. If an individual feels persecuted or abused, even without any basis in reality, that person could become agitated or violent.

Violence by “personal relations”: This type of violence is committed by an individual who has some personal relationship with a worker in the workplace, such as a current or former spouse, lover, or friend, or by an individual with difficulties at home, with the family, or with finances.

Threats

A threat is defined as an expression of intent to commit violence that places the listener in fear of imminent bodily harm, or is of such a nature that a reasonable person could be placed in fear of imminent bodily harm upon perceiving the expression of intent. The overall context of a statement, including nonverbal communications, should be taken into account to determine if such a statement is a threat covered by this policy. Threats are typically defined in three (3) categories: veiled, conditional, and direct.

- Veiled Threats - A veiled threat involves reference to a violent act and an association with the present situation. A veiled threat may be made to sound innocent, such as “I sure hope that what happened in Oklahoma City does not happen to you” or it may be more subtle, such as “They’re pushing me so hard, I’m not sure what I might do.”
- Conditional Threats - A conditional threat contains the words “if,” or “or”. For example, “If you do that, I’m going to shoot you” or “Approve my application or I’ll get even with you later”.
- Direct Threat - A direct threat is a warning of a pending violent act. “I’m going to punch you in the nose” is an example of a direct threat.

Results and Repercussions

The City will deal with corrective action on an individual basis. In determining the appropriate corrective action (if any), the City will consider all of the circumstances, including the nature of the complaint and the context in which events occurred. If evidence exists to support the allegations, corrective action, up to and including discharge, will be taken against the offender and a record of any corrective action taken will be included in the employee's personnel file. Individuals who lodge good faith complaints or who participate in a City investigation will not be retaliated against or otherwise treated adversely relating to the reporting of the situation or participation in an investigation.

5.9 Employee Health and Safety

The City is committed to providing our employees with a safe and healthy work environment. To accomplish this goal, both management and employees must diligently undertake efforts to promote safety.

The City has established a Safety Committee to bring employees and management together in a non-adversarial, cooperative effort to promote safety and health. The Safety Committee has representatives from each Department and meets monthly to review workplace hazards and make recommendations for change.

The committee is charged with the responsibility to define problems and obstacles for loss prevention; identify hazards and suggest corrective actions; help identify employee safety training needs; and to develop accident investigation procedures.

The City, through its supervisory personnel, develops and implements safety rules and regulations. This process is ongoing and requires periodic safety audits. Safety audits are undertaken to determine the necessity and feasibility of providing devices or safeguards to make the workplace safe and healthful. The organization also educates employees as to hazards of the workplace and trains employees as to such hazards and the proper and safe method to perform job tasks.

You are expected to give your full-time skill and attention to the performance of your job responsibilities utilizing the highest standard of care and good judgment. You are also expected to follow all safety rules and regulations at all times including the use of protective clothing and equipment, attendance at all training sessions related to your job description, and follow the directions of warning signs or signals and/or directions of supervisory personnel.

Safety rules and regulations will be issued or modified from time to time and shall be effective immediately. Rules and regulations will be distributed to you and posted on the safety bulletin board.

If an injury occurs you are required to:

1. Take remedial first aid actions
2. Report injury as soon as possible
3. Seek emergency care if necessary
4. Fill out accident form
5. Provide supervisor with a medical release from Doctor
6. Review incident with your Departmental Safety Coordinator

Smoking in the Workplace

The City is dedicated to providing a healthy, comfortable and productive work environment for all employees. The health risks of exposure to secondhand smoke have been well established and smoking can also be a cause of material annoyance and discomfort to those who are present in the same or confined places. There are additional sanitation risks associated with smokeless tobacco in terms of spitting and disposal of tobacco in open containers, sinks or walking surfaces. As a result all City facilities and property are designated as non-smoking and tobacco-free.

The use of tobacco and/or nicotine-related products and smoking are prohibited during work time and within any City-owned, leased or managed property, including but not limited to buildings, vehicles, parks and temporary work areas. Prohibited products include:

- Cigarettes
- Cigars
- Pipes
- Plant-products
- Electronic smoking devices
- Smokeless tobacco

Employee Right to Know/Hazard Communication Program

The City provides a Hazard Communication Program so that all employees are aware of chemical hazards in the workplace. By becoming knowledgeable about this information, you can help prevent injuries and illnesses from chemical exposure. If you have any questions regarding chemical hazards, do not delay in asking your supervisor, the Safety Officer, or the Human Resource Manager.

The following safety precautions have been taken to prevent injuries and illnesses from chemical exposure:

Container Labeling

Each Department Director will verify that all containers received for use will:

- Be clearly labeled as to the contents.
- Note the appropriate hazard warning.
- List the manufacturer's name and address.

It is the policy of this organization that no container will be released for use until the above data is verified.

The supervisor in each section will ensure that all secondary containers are labeled with either an extra copy of the original manufacturer's label or with generic labels that have identification and hazard warning blocks.

Safety Data Sheets (SDS)

Copies of safety data sheets for all hazardous chemicals that employees of this organization may be exposed to will be kept in each Department. Data sheets will be available to all employees in their work area for review during each work shift. If data sheets are not available, or new chemicals in use for which you do not have Safety Data Sheets, you should immediately contact your supervisor before using the chemical or the machine containing it.

Employee Information and Training

When you begin work, your supervisor will conduct a health and safety orientation and you will receive information and training about the following:

- An overview of the requirements contained in the Hazard Communication Rules;
- Chemicals present in your workplace operations;
- Location and availability of our written hazard communication program;
- Physical and health effects of the hazardous chemicals;
- Methods and observation techniques used to determine the presence or release of hazardous chemicals in the work area; and,
- How to reduce or prevent exposure to these hazardous chemicals through the use of control/work practices and personal protective equipment.

After receiving this training, you will sign a form to verify that you attended the training, received any applicable written materials, and understood the organization's policies on hazard communication.

Prior to a new hazardous chemical being introduced into any section of this organization, each employee of that section will be given information as outlined above. The Department Director is responsible for ensuring that Safety Data Sheets (SDS) on new chemical(s) are available.

5.10 Security Identification (ID) Badge Program

The safety of employees, visitors, and facilities is a top priority for the City of Forest Grove. The Security ID Badge Program establishes parameters for the issuance and use of Security ID Badges and is the primary way to communicate affiliation and authorization to be in non-public areas of the City's facilities.

This policy defines the Security ID Badge Program and the related procedures for the City to help ensure public and employee safety within City facilities and grounds. The reasons for this policy include the following public safety objectives:

- The personal safety of staff, visitors, and the public.
- The protection of the City's physical assets from potential harm, including theft, damage, or other potential risks.
- The protection of the entire community from any compromise of the select agents entrusted to the City.
- The protection of people, work product, infrastructure, and physical assets from intentional acts of disruption or terrorism.

To help achieve the City's safety and security goals, the following individuals are required to wear Security ID Badges:

- Persons who enter non-public space to provide service
- Persons working in targeted high-risk areas
- Persons who must wear identification to meet legal requirements

All Security ID Badges are the property of the City and are intended to provide official employee and visitor identification for access to non-public spaces. The Security ID Badge is not transferable and is valid for the period specified on the badge. Any misuse, alteration or fabrication of the badge will subject the holder to corrective action by the City. An expiration date is required and will be printed on the ID badge.

The Security ID Badge shall be worn and displayed face-up at all times, and presented and/or surrendered to City officials upon request. Failure by employees to wear and display the Security ID Badge may result in corrective action. Badges issued to employees and individuals affiliated with the City must be returned to the appropriate department upon separation from the assignment. Badges issued to volunteers and visitors must be returned to the issuing department at the end of the authorized period.

The Security ID Badge helps to create and promote a safe and secure environment for the City Community by:

- eliminating concerns about non-affiliated/unauthorized persons accessing restricted City spaces,
- increasing accountability of visitors to the City,
- providing a greater impetus to call attention to suspicious persons, and
- encouraging City staff to verify authorization before allowing access to non-public City spaces.

Department Responsibilities

Provide education on Security ID Badge program; provide departmental management and oversight of department activities related to the Security ID Badge Program.

- Ensure that all employees are aware of and adhere to this policy.
- Counsel any member of their staff who fails on a regular or repeated basis to comply with this policy.
- Ensure visitor compliance with this policy through check-in / check-out procedures.

All Badge Recipients

Responsible to know and comply with the Security ID Badge Program and related procedures and instructions, including the following protocol:

- Know and comply with the Security ID Badge Program.
- Provide one of the following forms of photo ID when picking up a badge: drivers license, state ID, Passport, Birth Certificate, or military ID.
- Wear the Security ID Badge at all times while in City facilities and/or during working hours.
- Wear the Badge above the waist, on the front of the person, and in a manner such that the photo and name are readily and easily visible to others.
- Do not loan or transfer the Security ID Badge to anyone, for any reason, and under no conditions.
- Do not deface or in any way alter, or duplicate the Security ID Badge in any manner.
- Immediately report the loss of the Security ID Badge to your supervisor.
- Upon termination or leave from assignment on which the Badge was issued, return the Badge according to policy for termination, leave, etc.

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CHAPTER 6

PERFORMANCE MANAGEMENT

6.1 Performance Management

To accomplish a meaningful performance evaluation system upon which the City can continuously monitor the effectiveness of the organization and its operations, all employees will receive regularly scheduled formal performance evaluations prior to the employee's anniversary date. Performance evaluations are required at least annually regardless of the employee's eligibility for an increase in pay. New employees during their initial probationary period will be evaluated at least once every six (6) months.

The objectives of our Performance Management and formal appraisal process are:

- To ensure that each employee knows how they are performing against established performance standards;
- To determine how well the City is performing in assisting with employee work performance and organizational objectives;
- To encourage communication and two-way feedback;
- To provide a consistent, objective, and fair method of making compensation decisions;
- To provide a tool for career planning; and
- To provide a permanent record of employee performance and contribution.

Managers and supervisors are accountable for providing employee development actions designed to improve and enhance employee performance such as:

- Reasonable employee training;
- Assigning, directing, monitoring and reviewing employee work;
- Assisting employees in correcting deficiencies; and
- Objectively evaluating employee performance during the evaluation period.

Our performance appraisal program is intended to be participatory, involving your input as much as that of your supervisor, thereby helping you to contribute to the growth and improvement of your career and the City. You are encouraged to:

- Inquire about your performance from time to time;
- Accept additional responsibilities and show initiative;
- Review opportunities for advancement within the organization;
- Ask for assistance in developing a goal-oriented path for advancement within the department or City; and
- Learn about training available to assist you in improving your skills, qualifying for a promotion, or lateral transfer.

Performance evaluations serve as one factor in decisions related to employment such as training, merit pay increases, job assignments, employee development, promotions and retention. Written evaluations are to identify specific performance levels as compared to established standards, to acknowledge the merit of above standard performance and to prescribe the means and methods of correcting performance deficiencies to the required level of performance.

6.2 Corrective Action

The City has high performance expectations because we strongly believe that everyone benefits when we all work together and conduct ourselves in a manner that mutually reflects the best interests of co-workers and the City. It is the philosophy of the City to take corrective action measures when needed for the purpose of correcting areas of performance deficiency or to deal with violations of policies and work rules. The purpose of corrective action is to both correct the situation and avoid repetition.

You are expected to carry out your duties in a manner that contributes to a positive and productive work environment and supports the goals and objectives of the City. Any action or behavior that detracts from this goal or that detracts from encouraging an environment based on professionalism and respect will be considered cause for corrective action.

Examples of cause for corrective action include, but are not limited to:

- Performing any unlawful act while on duty; or any conviction of a felony or misdemeanor, particularly those that are related to the position you hold.
- Indulging in conduct that reflects discredit upon the City or impedes the effective performance of City functions.
- Using position as a City employee to gain financial benefit or avoid financial cost for self, relatives or personal business.
- Indulging in offensive conduct, disrespectful treatment of other employees, public officials or members of the public, or any conduct prohibited by City policies, including all those referenced herein, safety policies, and any other policies established by your Department.
- On duty or off duty use of social media to post statements that disclose confidential information obtained through City employment; discriminate against, harass or defame City employees; or otherwise violate City of Forest Grove policies.
- The use of alcoholic beverages, illegal drugs or the misuse of prescription drugs while on duty. Being under the influence of intoxicants or illegal drugs. Being under the influence of prescription drugs that affect the performance of your duties.
- Insubordination or failure to meet the stated expectations of your supervisor, in situations where the instruction is lawful and does not pose a risk of harm to you.
- Performing duties in an inefficient manner or intentionally wasting time in the performance of duties. Inattention to duty or failure to be productive.
- Inability to perform or intentionally failing to perform the duties and responsibilities of your assigned position.
- Inability to perform or intentionally failing to perform the required job competencies.
- Unauthorized use of, damage to or negligence in, the care and handling of City property or equipment.
- Absence without authorization or misuse of City leave, repeated tardiness, which are not protected by law.
- Untruthfulness, whether verbal or written, regarding any employment matter related to your position or application for employment. Falsification of City documents or records.
- Willful violation of any provisions of ordinance or policy adopted by the City Council or City Manager.

You will be informed if corrective action is necessary as soon as possible after any performance problem has been identified. Your manager or supervisor will discuss the situation with you, explaining the policy and the necessity of corrective action to avoid other corrective actions and ensure that the action is carried out in a manner that does not cause you unnecessary embarrassment.

Although one or more corrective action measures may be taken in connection with a particular performance problem, a formal order is not required. Corrective action may include any of a variety of actions depending on the circumstances and severity of the particular situation.

Counseling sessions, letters of expectation and oral reprimands are intended only to serve as warnings and will not be considered corrective action. Any corrective action taken during a probationary period, whether initial or transitional, will not impact the right of the City to discontinue your employment in this position at any time. Please refer to Chapter 3 for additional information on initial and probationary appointments.

Corrective actions may be taken at the discretion of management and include **any** of the following:

- Written reprimand.
- Suspension without pay.
- Demotion in position or salary.
- Termination of employment.

Each action will be documented in your personnel file. The corrective action process may not always commence with a verbal counseling or include every step. The above options are not to be seen as a process in which one step always follows another. Some acts, particularly those that are intentional or serious, warrant more severe action on the first or subsequent offense. Each situation will be evaluated given the nature and seriousness of the offense, your work history, and the environment in which the offense took place.

Prior to initiating any of the above actions or any other action impacting pay for a regular employee or an employee serving a transitional probationary period, the supervisor will:

- Provide the employee with proper written notification of the pending allegations; and
- Provide a meaningful opportunity for the employee to respond orally or in writing to the allegations; and
- Give consideration to all relevant information prior to taking action.

When an employee is suspended without pay, the employee will not accrue leave during any periods in which they are not in pay status.

In cases where the Department Director determines that it is necessary to end the employment relationship between the City and a regular employee, the Department Director will review the

facts with the Human Resources Manager prior to action. The employee will receive written notification of the cause for separation.

Exempt employees may be suspended without pay under this policy, but only in full-day increments. Their pay will be reduced in an amount that is proportionate to the number of days suspended.

An employee may request and have removed from his or her personnel file any letter of reprimand which is more than two (2) years old if there have been no related problems during that period. An employee may request to remove any letter imposing corrective action more severe than a letter of reprimand which is more than five (5) years old, provided there is no subsequent related disciplinary action taken during the intervening period of time. In the event there is more than one letter imposing corrective action which is more severe than a letter of reprimand, none of the letters may be removed until the most recent letter is more than five (5) years old.

6.3 Appeals and Dispute Resolution

The City strives to create and sustain an environment where employees feel respected and safe from reprisal in bringing forth issues relating to their employment. To that end, the City will endeavor to resolve employee concerns informally, at the lowest possible level, and in a manner that is fair and considerate of all those involved. When issues covered by this policy cannot be resolved informally through discussions with the employee's supervisor, the employee may initiate an appeal. Retaliation towards an employee for initiating an appeal is expressly prohibited and may be grounds for termination.

The following types of appeals are covered under this policy:

- Position designation (classification);
- Denial of reassignment during a reduction in force;
- Corrective Action (excluding oral & written reprimands)
- A perceived violation of City policy;
- A perceived improper administration of a City policy;
- Other work-related disagreements (excluding performance evaluations).

The deadline for initiating an appeal for any of the above issues will be seven (7) calendar days from the date the employee first had knowledge of the issue, or when the employee was first informed of the intended corrective action. In cases of termination, the deadline for initiating an appeal is seven (7) calendar days from the effective date of the termination. Only a non-represented employee who has completed their initial probationary period is eligible to appeal corrective actions. Represented employees may not use this process to address any subject that is covered under the terms of their collective bargaining agreement. All management personnel are responsible to ensure that the appeal process is administered in a fair and consistent manner.

Appeal Steps

Step 1 - Immediate Supervisor: The appeal will be filed with the employee's supervisor. The supervisor, or other manager or supervisor appointed by the Department Director, will respond in writing to the employee within seven (7) days of receipt.

Step 2 - Department Director: Appeals which are unresolved at Step 1 may be submitted to the Department Director within seven (7) days of receipt of the response at Step 1. The Department Director will respond in writing to the employee within fourteen (14) days of receipt.

Step 3 - City Manager: Appeals which are unresolved at Step 2 may be submitted to the City Manager within seven (7) days of receipt of the response at Step 2. The City Manager will respond in writing to the employee within fourteen (14) days of receipt. The City Manager may support the Department Director's decision, reverse the decision, or modify it. The City Manager's decision is final and binding.

Issues relating to behavior that is perceived as unlawful harassment or the reporting of improper governmental action may be addressed through separate protocols, as the situation warrants.

CHAPTER 7

SEPARATION FROM EMPLOYMENT

7.1 Separation from Employment

Separation from employment with the City occurs when you voluntarily resign, you are laid off or terminated by the organization.

Resignation

In order to resign in good standing, the City would appreciate receiving notification of intent to resign at least ten working days prior to departure date for employees and thirty days for supervisors and management level personnel.

Employees who resign from the organization in good standing may be eligible for re-employment consideration. To determine eligibility, former employees must file an employment application with the Human Resources Manager and await notification of an available position. Applications received from former employees will be considered and processed using the same procedures and standards that govern all other applicants. When a position becomes available, the Human Resources Manager and the Department Director will review the former employee's performance records and the circumstances surrounding the termination of previous employment with the organization. The City is under no obligation to rehire former employees. An employee who is reinstated to the same position within one year of separation shall be appointed at the same rate of pay, benefits, and seniority held at the time of resignation. All other rehires shall be considered to be new employees.

Job Elimination, Reduction in Work Hours or Staff

The City's desire is to avoid circumstances that require a reduction in hours or staff, but we also recognize that situations may arise where we will need to make such reductions. Depending upon the circumstances, we may respond in a variety of ways, including offering a voluntary reduction in hours or days of work, reducing your work hours or days of work, reducing expenses by other means, or by a reduction of the workforce. Among the factors we will consider in selecting employees for any reduced hours or reduction in force are:

- Your department, location, or job;
- Your job knowledge, skill and ability to do the required work;
- Your performance, attendance, safety and disciplinary history and records;
- Your possession of licenses, registrations and or certifications required by the job;
- Your creativity and teamwork skills, if required for the job;
- Your demonstrated willingness to go the extra mile for the organization, co-workers and customers; and,
- The efficiency of our operation.

Evaluation of these factors is in our discretion. When we conclude that all the factors are substantially equal, we will reduce the hours of or lay off the employee with the least length of service. The immediate supervisor will personally notify employees of a layoff. After explaining the layoff procedure, you will be given a letter describing the conditions of the layoff, such as the effects on benefits, the possibility of reemployment, procedures, and any outplacement services.

Affected employees will be given two weeks' notice of lay-off, during which time the employee shall be allowed reasonable time off with pay to pursue other employment. During a one-year period of time following the lay-off, the City shall consider those persons laid-off for rehire, if a suitable position becomes available. An offer of re-employment may be made orally or in writing to the last address reflected in your personnel records. It is your obligation to keep us informed of any changes in your telephone number and address. The offer will identify the available job and the date you are to report to work. If you decline reemployment or fail to report on the date specified, you will be deemed to have waived any reemployment privileges and will be treated as a voluntary resignation.

Discharge

"At will" employees may be terminated at any time, with or without cause and without right of appeal. Employees serving Initial Probation are considered "at will". Please see Chapters 2 and 3.

All regular employees are hired at the City for an indefinite period of time and may be discharged with cause. However, our philosophy and general practice is to provide employees, who have completed initial probation with an opportunity to correct minor performance and conduct problems before discharge is implemented.

The City has a corrective action policy found in Chapter 6 of this Handbook that describes action management may take, at our discretion, to correct performance infractions prior to discharging employees.

The decision to discharge employees is based not only on the seriousness of the current performance infraction but also on the individual's overall performance record and length of service with the City.

The City also believes that our employees should be given an opportunity to be heard in matters involving corrective action, including discharge, and we have provided a formal problem resolution procedure found in Chapter 6 of this Handbook for that purpose. You are encouraged to use the procedure to resolve any issues you may have that cannot be resolved by consulting with your supervisor.

Exit Interview

An exit interview will be scheduled with you when you leave the organization. This gives you an opportunity to get any unresolved issues addressed before leaving the organization and allows us to solicit your honest opinions of our organization and any suggestions for improvement of the City. We encourage all employees to participate in an exit interview when they separate from employment and we value all opinions and suggestions we receive in the process.

Return of Organization Property

Upon separation from your employment, either voluntarily or otherwise, you must return all organization property in your possession by your last day of employment. City property includes credit cards, organization vehicles, keys, ID cards, pagers, cellular phones, tablets, laptops, tools, software, computer storage devices (e.g. USB drives), uniforms, this Handbook and any other items in your possession that belong to the organization.

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CHAPTER 8

EMPLOYEE BENEFITS

8.1 Benefits Overview

The City strives to provide the best, most equitable and cost-effective benefits for employees in recognition of the influence employment benefits have on the economic and personal welfare of our employees. Paid in various benefit forms on your behalf, the total cost to provide the benefit program described in this Handbook and other documents is a significant supplement to your pay and should be viewed as additional compensation.

Policies, provisions and procedures that govern the City's benefit program apply to all regular full-time and part-time employees, whether exempt or nonexempt status, unless otherwise provided in a particular benefit plan.

If you are covered by a collective bargaining agreement please refer to it for information concerning your level of benefits, eligibility, and enrollment costs related to all fringe benefits.

Some benefits may earn credit during your new-hire introductory period, but eligibility to use the benefit will not occur in most cases until you obtain regular status, or meet other conditions of employment specified in the Handbook or contained in the benefit policy/plan booklets.

Benefit Pro-ration and Employee Cost Sharing

If you are a regular part-time employee, some of your benefits are determined on a prorated amount of hours according to your benefit accrual rate or other formula. For example, you will accrue vacation and sick leave benefits at a lower rate than full time employees. Your accrual rate is based on the number of hours your position is budgeted.

Discretionary employment benefits, those benefits that are not mandated by state or federal law, are selected and controlled by the City Council through adopted resolutions. Decisions to provide and continue providing these benefits are based on such considerations as cost, composition of our workforce, operational efficiency, and desirability of benefit provisions. Where costs of discretionary insurance benefit plans exceed the City's interest, ability, or willingness to pay the full premium rate to maintain the current benefit level, you may be required to share in the cost to continue the insurance plan coverage.

Benefit Design and Modification

The City reserves the right to design plan provisions and to add, eliminate, or in other ways modify any discretionary benefits described in this Handbook or elsewhere in plan documents, where and when it is deemed in the City's best interest to do so. These benefits are subject to change depending on Council decision and available resources.

Benefit Plan Documents

You will be provided with summary plan descriptions upon eligibility and enrollment. The benefit programs are explicitly defined in legal documents, including insurance contracts, official plan texts, and trust agreements. In the event of a conflict between these documents and this policy, the plan documents will govern. All of these official documents are readily available from the Human Resources Manager for your review. We ask that you refer any questions about this information to the Human Resources Manager.

8.2 Health Insurance Benefit

The City currently provides health, dental, and vision insurance coverage for employees and their dependents if they are otherwise eligible to participate in the plan. You will be provided with information about the plan at the time you become eligible to participate in the plan. You are asked to review the summary plan description for answers to questions regarding coverage, eligibility, and cost. Any need for further information should be referred to the Human Resources Manager.

Eligibility

This benefit is provided for all regular full-time employees and regular part-time employees who are scheduled to work 20 or more hours per week on an ongoing basis. Additionally, temporary or intermittent employees who are regularly scheduled to work 30 or more hours per week on an ongoing basis, or who have averaged 30 or more hours per week during the City's established 12 month look-back period in accordance with the Affordable Care Act, will also be eligible for health insurance benefits. If otherwise eligible, you may begin to participate in the plan the first of the month after your hire date. Temporary and intermittent employees who do not meet the eligibility requirements outlined above are not eligible to participate in the health insurance plan.

Please contact the Human Resources Manager to discuss the eligibility for this benefit.

Plan Enrollment

Upon eligibility, you may complete enrollment forms. If you do not wish to enroll at the time of eligibility, and later decide to request enrollment, a verification of insurability form may be required from your previous health insurance provider, and your request for enrollment is subject to possible rejection by the healthcare plan insurance carrier.

Annually, an open enrollment period will be conducted during which times you may make changes to your elections and dependent coverage.

The cost of the monthly premium for full time, regular employees is shared between our employees and the organization as adopted by the City Council. Please contact Human Resources for current premium costs.

The cost of the monthly premium for part-time, regular employees is approximately 55%. Please contact Human Resources for specific information.

Any eligible employee who chooses not to enroll in the insurance plan is not entitled to any other form of compensation in lieu of coverage and is required to sign a written waiver of participation.

Premium Cost

Specific types of coverage and benefit payment schedules are described in the City's health care plan booklets that are available to all eligible employees. At the time of eligibility and during Open Enrollment each year we will inform you about the contribution the City will make toward your monthly premiums if you are eligible to participate in the plan. Premium rates are

established by the insurance carrier and are subject to change-usually based on increased costs to provide medical services and the amount of services required by our employees.

Any premium co-payment and dependent coverage you are required to pay is funded through a payroll deduction.

Termination of Coverage

In the event that you or your dependents lose eligibility to participate in the health plan, you may have the health plan coverage extended for a period of time. Eligibility can be lost due to a prolonged absence from work or upon the occurrence of certain "qualifying events," that would otherwise cause your group health coverage to terminate. Examples of qualifying events are termination of employment, reduction of hours, divorce or legal separation, entitlement to benefits under Medicare, a child dependent reaching majority age or a leave of absence.

You, your spouse, and/or dependents are permitted to continue group health insurance for a certain period of time at your own expense. However, continuation does not occur automatically. You must notify us in writing within 60 days after the date a covered family member will lose coverage because of an event or the covered family member will permanently lose the right to continuation coverage. Election of coverage and payment of the premium must then occur within a specified time limit for coverage to continue. You and any covered dependent will be given a notice covering the provisions of the law at the time you enroll and again upon the occurrence of any qualifying event.

8.3 Life Insurance

Group Life

The organization currently provides group life insurance coverage for regular employees eligible under the City's current policy. Employees will be provided with information about eligibility in the plan at the time of hire. The organization pays for the full premium. The standard coverage equals one times the employee's annual base pay rounded to the next thousand with a one-hundred forty thousand dollar (\$140,000) maximum. Employees may elect additional coverage at their own expense.

Dependent

Employees may elect dependent coverage and/or additional dependent coverage at their own expense.

8.4 Long-Term Disability

The City provides a Group Long-term Disability plan. The plan provides compensation to regular employees eligible under the City's current policy who are unable to work due to an accident or illness lasting ninety (90) days or more. Employees will be provided with information about the plan at the time of hire. The City currently pays for the full premium.

8.5 Section 125 Plan

The City may provide Section 125 plans, including the Premium Only, Healthcare Flexible Spending Account, and Dependent Care Assistance plans as authorized by IRS code. These plans allow employees to have group medical or dental costs deducted from their paychecks on a pre-tax basis.

The Premium Only Plan allows the employee portion of premiums to be deducted on a pre-tax basis, reducing payroll taxes for both the City and the employee.

The Healthcare Flexible Spending Account (FSA) is available for insurance co-payments, deductibles, and other eligible medical expenses not reimbursed by insurance as defined by IRS Section 213(d).

The Dependent Care Assistance Plan (DCAP) covers the cost of caring for a dependent while the employee and spouse work.

Additional information is available during open enrollment or by contacting Human Resources.

8.6 Retirement Plans

After six months of full-time employment, regular full-time employees are required to participate in one of the City's retirement plans depending on the employee group he/she is in: the Defined Benefit Plan or the Defined Contribution Plan. Eligible regular part-time employees regularly scheduled to work at least 20 hours per week will be enrolled in the Defined Contribution Plan.

1. **Defined Benefit Plan:** the City pays the employee's portion of the contribution at a rate established by annual salary. Contributions to the retirement plan must meet actuarial requirements. Employees who terminate prior to being eligible for vesting rights must withdraw their contributions to the plan. Please contact the Human Resources Manager for a copy of the plan documents.
2. **Defined Contribution Plan:** the City contributes a percentage of the employee's base pay as established by resolution of the City Council into a 401(a) plan selected by the employee. Retirement benefits for the defined contribution plan are based on the accumulated contributions and earnings over the employee's participation in the plan. The retirement benefits are dependent on the accumulated account balance for each employee at retirement. Guidelines for withdrawals will be governed by the rules in accordance with IRS Section 401(a) rules. There are no vesting requirements for this plan.

8.7 Health Reimbursement Arrangement (VEBA)

Regular employees who elect a health insurance plan with the City of Forest Grove will receive monthly contributions of one percent (1%) of the employee's base salary to a medical savings account Voluntary Employees' Beneficiary Association (VEBA) plan, under Section 501 (c) (9) of the Internal Revenue Code. This benefit is designed to help you plan for retirement medical costs. Please contact Human Resources for additional information.

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CHAPTER 9

TYPES OF LEAVE

9.1 Vacation Leave

All regular non-represented full-time and part-time employees are eligible for vacation based on the schedules below.

FLSA Exempt positions:

<u>Continuous years of service</u>	<u>Benefit</u>
1 to 2 years	15 days per year
2 to 5 years	20 days per year
more than 5 years	25 days per year

FLSA Non-Exempt:

<u>Continuous years of service</u>	<u>Benefit</u>
1 to 2 years	10 days per year
2 to 5 years	12 days per year
5 to 10 years	15 days per year
10 to 15 years	20 days per year
more than 15 years	25 days per year

Regular, part-time employees' monthly and accrual limit is based on a pro-rata basis calculated on the work schedule established by your position. For purposes of vacation, continuous service will be calculated from the nearest first of the month related to your date of hire. Vacation hours will not accrue when an employee is on an unpaid leave of absence on an hour-for-hour basis.

The purpose of vacation and personal time is to allow employees to enjoy periods of time away from work and have time available for personal use. Vacation time is intended to provide time away from work for rest and recreation. Vacation time will be paid out at separation in accordance with applicable laws.

Time is not to be banked and never used; therefore, your accrual limit cannot exceed 45 days (360 hours). Vacation benefits will stop accruing when the maximum allowed has been reached until you reduce the total below the maximum, at which time the benefit will begin accruing again.

Initial probationary employees will not be eligible to use accrued vacation until the employee has completed six (6) months of service, unless otherwise designated by the City Manager. The City Manager may, due to labor market competition or other business related factors, assign a higher vacation accrual rate.

Vacation leave is available for use after it is credited to your leave bank. FLSA non-exempt employees must use vacation in no less than quarter hour (15 minute) increments. FLSA exempt employees are required to use appropriate accrued leave to cover absences from work that result in them falling more than four hours short of their average weekly work schedule (40 hours per week for full-time employees). Use of accrued leave is not required if the exempt employee's absence is the result of flexing work schedules due to workload.

Any employee wishing to use vacation time should request vacation hours as early as possible so that arrangements for coverage can be made. Requests for vacation time are to be made in writing and given to your supervisor. Every attempt will be made to grant each request, however, no guarantees can be offered. In the event of competing requests for times submitted at the same time, approval will be given to the employee with the longest tenure.

Vacation leave may not be used to extend an employee's length of employment at the time of termination.

Once approved, vacation leave may not be modified to sick leave unless the event qualifies under the Family Medical Leave policy as a serious health condition.

Vacation Buy-Back

Non-represented, FLSA Exempt, employees who have used forty (40) hours of vacation in a designated twelve (12) month period and who have at least eighty (80) hours of vacation "on the books" at the end of that twelve (12) month period are eligible for vacation buy-back. Vacation buy-back allows an employee to take pay for up to forty (40) hours of vacation. This option will be made available two times during the year, but may be used by an employee only once during a twelve (12) month period. Additional information is available from the Human Resources Manager.

9.2 Sick Leave

Sick Leave

All regular full-time and part-time employees may use sick leave accruals when either the employee or a member of their immediate family is ill or requires medical or dental care or for Oregon parental leave. Immediate family is defined as spouse, same sex domestic partner, parents, children, children of the same-sex domestic partner, siblings, grandparents, grandchildren, in-laws, parents of the same sex domestic partners, and other close relatives who reside in the employee's household. The Human Resources Manager may approve exceptions to this policy on a case-by-case basis upon written justification from the employee.

Regular, full-time employees accrue sick leave at a rate of eight (8) hours per month. Regular part-time employees receive a prorated amount based on scheduled hours. Sick hours will not accrue when an employee is on an unpaid leave of absence on an hour for hour basis. Sick time accumulated will not exceed 1400 hours. Sick leave is available for use after it is credited to your leave bank.

FLSA non-exempt employees must use sick leave in no less than quarter hour (15 minute) increments. FLSA exempt employees are required to use accrued leave to cover absences from work that result in them falling more than four hours short of their average weekly work schedule (40 hours per week for full-time employees). Use of accrued leave is not required if the exempt employee's absence is the result of flexing work schedules due to workload.

It is in your best interest not to be at work when you are disabled due to illness or injury. It is your supervisor's responsibility to send you home if you are incapacitated or a threat to other employees' health and/or safety and you are expected to cooperate with the decision.

Time for routine doctor or dentist appointments should be charged to sick time unless other arrangements have been made with your supervisor. You are encouraged to make such appointments before arriving to work or after work hours, if possible.

In the event of an extended leave, you must use accumulated sick leave in conjunction with income protection plans or other sources of disability income to achieve full pay for as long as possible. However, at no time can the combination of these exceed normal earnings.

You are expected to notify your supervisor at the beginning of each workday during illness or injury. Exceptions to this include a serious accidental injury, hospitalization, or when it is known in advance that you will be absent for a certain period of time.

A Medical Release Statement may be requested for review before you return to work in certain situations.

Unused sick leave is not paid at termination, but may be convertible under the terms of the City's Defined Benefit Retirement Plan. Please refer to the Defined Benefit Retirement Plan documents for additional information.

In the case of a work-related accident or injury, you may use sick time to offset any days not paid through Workers' Compensation, or to offset the reduction in regular pay until accumulated sick time is used. However, at no time can the combination of these exceed normal earnings, nor can you use more sick time than that accumulated.

Donated Leave Program

The City has implemented a leave donation program to assist regular employees who have, as a result of extended or catastrophic illness and/or injury, exhausted all accumulated leave (sick, vacation, personal, and compensatory time) and are not receiving workers' compensation or retirement benefits.

Employees may voluntarily donate vacation leave or compensatory time in increments of one hour or more to an eligible employee's sick leave account, based on the conversion of the donor's salary rate to sick leave hours at the donee's salary rate.

Donors are prohibited from recovering any unused hours from the donee's sick leave account once donation has been credited. Donations are required to be documented, including the donor's signature and any verification of need of the employee receiving donations. The period of time an employee is eligible to receive donated leave will not exceed ninety (90) calendar days in any twelve (12) month period, non-retroactive. The Human Resources Manager is responsible for establishing and administering the donated leave program and making final determinations regarding need. Request for donated leave must be made to the Human Resources Manager.

Employees receiving donations must understand that the use of donated vacation leave or compensatory time as sick leave may offset disability payments.

9.3 Paid Holidays

The City observes the following holidays each year. The organization is officially closed on these days, unless otherwise determined by the Department:

- New Year's Day
- Martin Luther King Jr. Day
- Memorial Day
- Independence Day
- Labor Day
- Veterans Day (See 9.14 below)
- Thanksgiving Day
- Day after Thanksgiving
- Christmas

In addition, eligible employees will also receive two personal holidays per year.

If a holiday falls on a Sunday, it will be observed on the following Monday. When a holiday falls on a Saturday, it will be observed on the previous Friday.

Personal Holidays are credited at the beginning of the calendar year and shall be prorated to the nearest hour for newly hired employees. Personal Holiday hours must be used in no less than quarter hour (15 minute) increments. Personal Holidays must be used within the year credited or forfeited. Personal Holiday hours are payable at termination for regular employees only.

Regular full-time and part-time employees are eligible for Holiday pay. Full-time employees receive eight (8) hours of holiday pay as paid time, regardless of the number of hours scheduled to work on the holiday. Employees are required to supplement their holiday pay with vacation, compensatory, or actual work hours to cover the scheduled hours.

Part-time, regular employees will receive a pro-rated amount of paid time based on their regularly scheduled time. For instance, a regular, part-time employee working 20 hours per week would receive 4 hours of holiday pay because they are working 50% of full-time.

To be eligible for holiday pay, the employee must be in pay status the regularly scheduled work day immediately preceding and immediately after the holiday.

If covered by a collective bargaining agreement, please refer to it for specific language related to holiday pay, eligibility, and use.

9.4 Leaves of Absence Policy

The City recognizes that our employees may encounter many situations that require a temporary extended absence from work. We offer several different types of leaves of absence for this purpose:

- Bereavement Leave
- Civic Duty Leave
- Family & Medical Leave
- Worker's Compensation Leave
- Personal Leave
- Administrative Leave
- Uniformed Services Leave and Re-Employment
- Domestic Violence Leave
- Lactation Leave
- Veterans Day Leave

The type of leave may determine which employees are eligible and what procedure is to be followed in requesting and obtaining the leave. The effect of the leave on benefit accruals, benefits and reinstatement rights also vary according to the type of leave you are requesting. Each of these leaves is discussed on the following pages. If you have any questions about your potential eligibility for a leave or your benefits and rights while on a leave, please contact the Human Resources Manager.

9.5 Bereavement Leave

Regular full-time and part-time employees are eligible to take a Bereavement Leave in the event of death of immediate family members as defined below: (Also see Section 9.7 – Family and Medical Leave for information about Bereavement Leave under OFLA.)

Coverage

Immediate family is defined as spouse, same sex domestic partner, parents, children, children of the same-sex domestic partner, siblings, grandparents, grandchildren, in-laws (including father, mother, brother or sister), parents of the same sex domestic partners, and other close relatives who reside in the employee's household.

The Human Resources Manager may approve exceptions to this policy on a case-by-case basis upon written request from the employee.

Length of Leave

You are allowed to take up to five consecutive regularly scheduled working days away from work for a bereavement leave for immediate family members. If you need additional time off for any bereavement purpose, you must use earned vacation, compensatory time, or apply for an unpaid personal leave of absence.

Request Procedure

You are expected to give us as much notice as possible of the need for time-off so that we can make arrangements to cover your absence. Determination to grant the leave will be made by your Department Director. Verification of family relationship and death may be requested in limited circumstances.

Pay while on Leave

If you are a regular employee, you will continue receiving your regular pay for up to the five days allowance. Exempt employees will continue receiving their regular salary for any additional partial days missed for any bereavement purpose.

Status of Benefits

Eligibility for benefits or continuance of benefit accruals are not affected by bereavement leaves. If the length of your absence extends beyond the five-day leave allowance and you are granted additional time off in the form of a personal leave, the effect of the additional leave on your benefits will be determined by the City's personal leave policy, later in this chapter.

Reinstatement

You will be reinstated to the same position you held at the time your leave began subject to our general reinstatement policy.

9.6 Civic Duty Leave

Jury or Witness Duty

If you are subpoenaed to serve as a witness or on jury duty you may obtain a leave of absence. If it is felt that your absence would create an undue hardship to you or the City, we may request, with your full agreement, that you be excused from jury duty.

Length of Leave

Jury or witness duty leave is available for the period of time covered by the initial subpoena or court order and any involuntary extensions. If an employee is released from jury or witness duty prior to the completion of his/her scheduled shift, he/she must return to work for the remainder of the scheduled work shift.

Request Procedure

You must notify your Department Director as soon as you receive the notice or as soon as is practicable so that arrangements can be made to cover the position. You are expected to provide us with a copy of the subpoena or notice within five days after it is received.

Pay while on Leave

You will be compensated for the difference between the civic pay received and your regular rate of pay for up to sixty (60) days. Any continued absence beyond 60 days must be charged against your accrued vacation, compensatory time, or unpaid in the event no leave balance exists. You must remit to the City any remuneration received, less expenses, in order to receive your regular pay for the leave. Please speak with the Human Resources Manager if you have any questions pertaining to the procedure.

Status of Benefits

Benefits are not affected by jury or witness duty leaves.

Reinstatement

You will be reinstated to the same position you held at the time your leave began subject to our general reinstatement policy. You are expected to report to work during regular work hours when not in court. If requested, you must supply proof of appearance in court or serving on a jury.

9.7 Family and Medical Leave

It is the City's policy to provide eligible employees unpaid leave for childbirth; adoption; foster child placement; the care of a seriously ill spouse, child, grandchild, parent, or grandparent; the employee's own serious health condition; to care for a sick child; for bereavement leave for employee's spouse, parent, parent-in-law, child, grandparent, grandchild, same sex domestic partner and an individual standing in loco parentis; or to care for an injured service member in accordance with applicable federal and state legislation.

The Family and Medical Leave Policy (FML) covers employees including employees absent from work due to occupational related illness or injury, except to the extent provisions in applicable collective bargaining agreements, state or federal laws provide otherwise. Workplace injuries that qualify for family leave under this policy will not be counted against an employee's Oregon Family Leave Act (OFLA) entitlement.

The Family and Medical Leave Policy (FML) consolidates provisions of the Federal Family and Medical Leave Act (FMLA), Oregon Family Leave Act (OFLA), and the Oregon Military Family Leave Act (OMFLA). To the extent that provisions vary, this policy adopts the regulation more beneficial to the employee. To the extent the employee fails to qualify under this Policy, eligibility will be reviewed under leave laws individually to ensure employee rights are protected.

FML will run concurrently with other paid or unpaid leave for which the employee is eligible and qualifies, unless otherwise prohibited by collective bargaining agreement, state or federal law.

Eligibility

To qualify for FML employees, including those engaged for limited duration, must meet the following criteria:

- **FMLA**
Employee must have been employed by the City for at least twelve (12) months, and worked at least 1250 hours during the 12-month period immediately preceding the leave.

- **OFLA**
Employee must have been employed by the City for at least 180 calendar days immediately preceding the leave and have worked for an average of at least 25 hours per week during the

180 days immediately preceding the leave. Employees are eligible for parental leave after being employed for 180 calendar days, without regard to the number of hours worked per week.

- **OMFLA**
Employee must have worked an average of 20 hours per week for the City for at least 180 calendar days immediately preceding the date the employee takes OMFLA leave.

In determining the 12 calendar months and 180 calendar days, the number of days an employee has been on the payroll are counted, including all paid and unpaid time. The 1250 hours, 25 hours per week, and 20 hours per week minimums are actual hours worked.

Purpose of Leave:

- **Parental**
Leave to care for a child under the age of 18 born to or placed for adoption or foster care with the employee. Under OFLA, an employee who uses 12 workweeks of parental leave is entitled to take up to 12 additional workweeks of sick child leave.
- **Employee Medical**
Leave because of the employee's own serious health condition, which prevents the employee from performing at least one essential function of his or her job. This includes pregnancy-related disability and absences from work due to prenatal care. Under OFLA, a woman using pregnancy disability leave is entitled to up to 12 additional workweeks of leave in the same year for any qualifying OFLA purpose.
- **Family Medical Care**
Leave to care for an employee's family member with a serious health condition. Under Federal law, covered family members include a spouse, child or parent. Under state law, covered family members also include same sex domestic partners, parents-in-law, grandparents or grandchildren of the employee.
- **Military Caregiver**
Leave to care for a seriously ill or injured covered service member who is the employee's parent, child, or spouse or for whom the employee is the next of kin. Such leave may be taken for up to 26 workweeks in any single 12 month period. Leave to care for a military service member, when combined with all other FMLA leave may not exceed 26 workweeks in a single 12 month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness that 1) either existed before the beginning of the service member's active duty and which was aggravated by service in the line of duty on active duty, or 2) was incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. A covered service member is also a veteran discharged under conditions other than dishonorable within the five-year period before the employee first takes military caregiver leave to care for that

veteran who is undergoing medical treatment, recuperation or therapy for a serious injury of illness. This is covered under federal law.

- Qualifying Exigency

Leave for a qualifying exigency arising out of the fact that the employee's parent, child or spouse is a member of the Armed Forces (including the National Guard and Reserves) and is on covered active duty or has been notified of an impending call or order to covered active duty. For members of the regular Armed Forces, covered duty is defined as duty during deployment of the member with the Armed Forces to a foreign country. For members of the National Guard or Reserves, covered duty is defined as duty during deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in support of a contingency operation. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, attending post-deployment reintegration briefings, caring for the service member's parent when the parent is incapable of self-care and the service member has been called to active duty, and spending up to fifteen (15) calendar days with a military member who is on Rest and Recuperation leave during covered active duty (such leave may be used only during the military member's Rest and Recuperation leave). An employee's request for qualifying exigency must be supported by appropriate certification. Qualifying exigency leave is covered under federal law.

- Oregon Military Family Leave Act

Leave for a spouse or domestic partner of a member of the Armed Forces, the National Guard, or military reserve who has been called to active duty or notified of impending call to active duty, or who has been deployed. An eligible employee may take a total of 14 calendar days leave per deployment after the military spouse or domestic partner has been notified of an impending call or order to active duty and before deployment and when the military spouse is on leave from deployment.

- Bereavement Leave under OFLA

Leave for an employee to attend the funeral or alternative to a funeral of a covered family member (as defined by OFLA: see first paragraph of this section), to make arrangements necessitated by the death of the family member, or to grieve the death of the family member. An eligible employee may take up to 14 calendar days of leave within a twelve month period per death of a covered family member. Leave must be taken within 60 days of the date the employee receives notice of the death of the family member. Eligible employees may begin leave prior to formal notice to the employer, but must at least provide verbal notice of the need for leave within 24 hours of commencing the leave, plus provide written notice and explanation of the need for leave within three days of returning to work.

Employees may, if necessary, take multiple bereavement leaves during any OFLA year. Employees with multiple family member deaths are not required to take leave concurrently for each family member. Bereavement leave will be credited against the employee's 12 weeks of leave under OFLA.

Bereavement Leave taken under the provisions of Section 9.5 and this Section will be combined and credited against the employee's 12 weeks of family leave allowed under OFLA. See Section 9.5 for information regarding pay during bereavement leave.

Definition of a Serious Health Condition

Under FMLA, a serious health condition is an illness, injury, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three (3) consecutive calendar days combined with at least two (2) visits to a health care provider or one (1) visit and a regimen of continuing treatment or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Under OFLA, a serious health condition is defined as set forth under ORS 659A.150(6).

Length of Leave

Eligible employees are permitted to take a total of twelve (12) workweeks of leave in a rolling 12-month period counted from the first day the employee begins leave for any qualifying event. Parental leave must be taken in one contiguous block within the 12 months immediately following the birth or placement of a child, unless otherwise agreed to by the City.

Leave required due to the serious health condition of the employee, family member or child, or Oregon Military Family Leave and Qualifying Exigency Leave may be granted on an intermittent or reduced hour basis. If appropriate, an employee's request for intermittent leave will be considered as business requirements allow.

Exempt employees' salaries will be reduced proportionately by hours not worked.

With the employee's concurrence, the City may temporarily transfer the employee on approved intermittent leave to another position that can more easily accommodate recurring absence. In the case of a transfer, the employee will not suffer loss of pay or benefits and only that leave attributable to reduced hours will be counted against the employee's leave entitlement. The employee so assigned will be returned to the regular position unless leave taken plus the period of time worked in the alternate assignment exceeds leave allowable by law, in which case the City reserves the right to replace the employee's position.

Based on business demands, parents working for the same employer may be required to take leave consecutively instead of concurrently.

Whenever possible, absences for planned medical treatment or other appointments should be scheduled to minimize disruption in the workplace.

An employee who gives unequivocal notice of intent not to return to work from FML is entitled to complete the approved leave, providing that the original need for leave still exists. The employee remains entitled to all rights and protections of law and Policy, including, but not

limited to, the use of accrued leave and health benefits. However, the City is relieved from job restoration obligations.

Counting Leave

FML leave is accounted for on the basis of the employee's usual workweek. For example, an employee normally scheduled for five (5), eight (8) hour work days would have one-fifth (1/5) of one (1) week or eight (8) hours counted as FML for each full day absence.

Pay

Employees will receive no regular compensation while on FML leave, except for bereavement leave in accordance with Section 9.5 – Bereavement Leave.

Employees absent on FML due to a serious health condition for self or qualifying family member will be required to use available accrued sick, vacation, holiday leaves, or in the case of the employee's own serious health condition, workers' compensation and/or Long-Term Disability benefits, in that order before going into authorized unpaid time. Employees may choose to use accrued compensatory time in lieu of accrued leave until it is exhausted.

Employees who are absent for parental leave will be required to use accrued time from accrued vacation, holiday and sick leave, as elected by the employee, before going into authorized unpaid time.

Under specific conditions, an employee exempt from overtime under the Fair Labor Standards Act on reduced hours leave may have their pay docked for less than full-time absences without jeopardizing their exempt status.

Benefits While on Leave

Group employee benefits will continue if the employee makes the required employee premium payments while on leave. In the case of premium payment default, the City will advance employee cost share and recover the advance upon the employee's return to work at the rate of 10% of the employee's gross pay each pay period.

Under FMLA, leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

If the leave qualifies for Oregon Family Medical Leave or the Oregon Military Family Leave Act, continued health care benefits may not be paid for by the City at its sole discretion. Employees should check with Human Resources to resolve any questions regarding the continuation of health care benefits.

The City will terminate maintenance of an employee's benefits coverage effective when employment would have terminated if the employee had not taken FML, or when:

- The employee fails to return from leave.
- The employee's leave entitlement under FML and other applicable leaves expire.
- The group health plan terminates.

Unpaid premiums not subject to the above exceptions are considered a debt owed to the City by the employee. The City will endeavor to collect the debt through whatever means practicable. The City may recover its share of the premium through deductions from any amount owed to the employee, such as unpaid wages, vacation pay, etc. Any deductions will be made in compliance with state and federal law.

Other Benefits While on Leave

While on FML, an employee will be eligible for paid holidays if in pay status the day before and the day after the holiday. Holiday hours will be counted toward the employee's FML entitlement unless leave is taken on an intermittent or reduced hours basis.

An employee on FML leave *will not* accrue seniority-based benefits, such as sick or vacation pay while not in pay status, unless provided for otherwise by policy or collectively bargained agreement.

Any period of approved FML will be treated as continued service for retirement and savings plans vesting and participation purposes.

Reinstatement after leave will be without loss of any employee benefit or right earned or accrued at the beginning of the leave, except that benefits may be reduced by the amount used during the leave, e.g. vacation hours, holiday hours, sick hours, etc.

Leave Application

In order to avoid business disruption, an employee must notify the City in writing of the request for leave at least thirty (30) days prior to the beginning of a foreseeable need. Employees are required to complete a leave application form for all leaves and to provide medical certification for leaves involving a serious health condition.

When the need for leave is not foreseeable, or its approximate timing uncertain (e.g., adoption placement, medical emergency), notice is required as soon as is practical given the particular circumstances. In this situation the employee or a representative if the employee is incapacitated, must notify the immediate supervisor as promptly as available means of communication permit. If an emergency occurs while at work, the employee must notify the immediate supervisor before leaving the workplace.

An employee seeking Oregon Military Family leave must provide notice of the intent to take leave within five (5) business days of receiving official notice of an impending call or order to active duty, or for a leave from deployment, or as soon as practicable when official notice is provided less than five (5) days from commencement of leave.

Certification Requirements

An employee's request for family medical leave due to the serious health condition of the employee or the employee's qualifying family member requires written medical certification from a health care provider as soon as possible but no later than 15 calendar days following a request for certification by the City. Certification of a serious health condition shall include the date when the condition began, its expected duration and a brief statement of treatment. For medical leave of the employee's own medical condition, the certification must also include a

statement that the employee is unable to perform work of any kind or a statement that the employee is unable to perform the essential functions of the position. For a family member who is seriously ill, the certification must include a statement that the patient/family member, requires assistance and that the employee's presence would be beneficial or desirable.

An employee requesting Qualifying Exigency Leave is required to complete a Certification of Qualifying Exigency for Military Leave including written documentation confirming the military member's call to active duty. A copy of the military member's active duty orders is required for an employee requesting Oregon Military Family Leave.

If an employee fails to provide notice within two (2) days after the need for leave becomes apparent, the absence may be deemed unexcused, and the employee may be subject to corrective action consistent with policy and/or collectively bargained agreement.

The City may require a second medical opinion when it questions a health care provider's certification. If the second opinion conflicts with the first, the employee and City must designate a health care provider for a third opinion which will be final and binding. The City will pay associated provider expenses, as well as reasonable "out-of-pocket" travel expenses.

If requested by the City, re-certification of a medical condition must be provided every 30 days for condition duration, unless waived by the City. Earlier confirmation may be required if:

- Significant changes impact the then current disability certification, e.g. complications, severity of condition necessitates more frequent absences; or,
- The City receives information that casts doubt on the stated reason for the absence.

When absent from work due to illness, injury, or other disability, the employee must refrain from engaging in activities that may impede a timely return to regular job duties without prior approval of the City and the attending practitioner.

Employer Notice

Under FMLA, the City must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employee's rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

The City must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Return to Work

An employee is expected to return to work as soon as medically able, as determined by a health care provider or, in the case of parental leave, as approved in advance of the leave start date.

Generally, an employee has two (2) business days to inform the supervisor of the discovery that more or less time will be needed than originally agreed. Failure to provide such notice, especially

for leave extension, may result in extension denial or corrective action up to and including termination of employment.

Return to work certification is required before an employee returns to work as outlined below.

This certification must be based on the health care provider's review of the employee's essential job duties, as outlined in their job description. Information on the release should be limited to the condition that caused the leave.

Reinstatement will be delayed until a health care provider certifies the employee as able to return to the former or equivalent job. Return to modified duty may be accommodated, not to exceed six-months unless approved in advance by the City Manager. Employment may be terminated if the employee fails to provide this certification or a new medical certification for a serious health condition. The City reserves the right to proceed with termination in the event all protected leave is exhausted, unless precluded by collectively bargained agreement.

Generally, an employee returning from FMLA leave will be reinstated to their former or equivalent job unless the employee would not otherwise have been employed at the time reinstatement is requested. If, for business reasons, the employee's former job and equivalent jobs have been discontinued during the family leave period, the employee will be reinstated to an available and suitable position, if one exists. If one does not exist, the employee will be separated in accordance with policy or collectively bargained agreement.

The employee may be required to periodically provide notice regarding intent to return to work upon the conclusion of the approved leave. The employee's unequivocal decision to voluntarily separate releases the City from its reinstatement obligation.

Other details regarding this policy are available from the Human Resources Manager.

FMLA Specific Provisions

Under FMLA it is unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer. FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.

9.8 Workers' Compensation Leave

The City will insure employees for injuries received while at work as provided under the Oregon State Worker's Compensation Act. The day of injury will be considered a normal work day and will be paid by the City.

All job-related injuries or illnesses are to be reported to the supervisor immediately, regardless of severity. In the case of serious injury, your reporting obligation will be deferred until circumstances reasonably permit a report to be made. Failure to report an injury or illness may preclude or delay the payment of any benefits to you and could subject the City to fines and penalties.

A probationary or regular employee receiving time-loss payments under workers' compensation may, in addition, draw upon sick, vacation, and/or compensatory time accruals to make up the difference between the workers' compensation payment and their normal net pay. Use of accruals in this manner will be subject to the standard deductions. If a probationary or regular employee is absent for less than 112 scheduled work hours due to an injury compensable under workers' compensation, the City will pay the employees regular wages for up to the first 24 scheduled hours of work missed.

Non-represented probationary and regular employees receiving time-loss payments will be credited with full-accrual payroll periods for up to 60 calendar days.

In any event, no duplication of payments between the City's workers' compensation carrier and the City will be allowed.

Return to Work of Injured Workers

It is the policy of the City of Forest Grove to return its employees with compensable work-related injuries or illnesses to an available and suitable position as soon as possible. To achieve this, the City shall provide, where possible, temporarily modified work (light duty) while the employee is recovering. Light duty positions are not a property right and, therefore, they are not guaranteed in all situations. Any light duty work assignment must provide benefit to both the City and the injured worker.

This policy applies to all City employees when appropriate. Departmental operating policies and/or City labor agreements may provide additional procedural requirements but do not alter the authority of this policy. The City will determine appropriate work hours, shifts, duration and location of all work assignments and reserves the right to determine the availability, appropriateness, and continuation of all light duty assignments.

The injured employee shall report immediately all accidents, incidents, work-related injuries or illnesses to his/her supervisor whether or not medical care is anticipated. If the immediate supervisor is not available, the report shall be made to the next level supervisor or the Human Resources Manager. Upon receiving medical care, the employee shall provide a report of medical condition prepared by the attending physician within 24 hours of medical treatment to the Human Resources Manager. The employee should inform their physician that the City has a return to work program with light duty/modified work assignments available and review their current job duties and responsibilities with the physician. The medical report(s) shall contain

specific and objective information such as employee capabilities, limitations and prognosis for use by the City to determine an appropriate work assignment or leave status. The employee will then provide the documentation requesting a light duty assignment including the tentative start date, duration, and specific limitations imposed by their physician, and prognosis for release to full duties. The employee will not be allowed to return to work without a signed release from their attending physician.

Supervisors are required to review the injured worker return-to-work process with the employee, complete an Injury Report Form 801 within 24 hours of the injury if an injury requiring medical treatment has occurred, and immediately forward it to Human Resources Manager. Supervisors must also investigate and complete an Oregon Occupational Safety & Health Division (OR-OSHA) on-the-job injury incident report within 24 hours and send the report to the Human Resources Manager. The supervisor will ensure that the injured employee has a current copy of their job description, if requested by the physician, to aid the physician in their evaluation.

The Department Director will offer an available light duty work assignment to an injured employee, where feasible. The temporary assignment shall be in agreement with the physician's medical restrictions, be consistent with agency policies and collective bargaining agreements, and normally be limited to a 90-day period during which time interim evaluations shall be made. The assignment must not only accommodate the employee's limitations, but also provide benefit to the City. The employee during this period of modified work assignment will maintain his/her permanent position with regular salary, seniority and benefits. Upon release to regular duties, the employee will return to his/her regular assignment.

In the event that an employee is determined to have a permanent restriction and is unable to return to his/her original assignment, they will be evaluated pursuant to State and Federal law.

9.9 Personal Leave

Regular full-time and part-time employees may be granted a personal leave of absence without pay under certain circumstances. A personal leave of absence is an approved period of time away from work for personal reasons that does not fall under the guidelines of the Family and Medical Leave policy, or other leave policy. A personal leave of absence is granted at the discretion of the City Manager and is normally granted to protect the length of service and benefit rights for an employee whose service might otherwise be terminated.

Eligibility

You become eligible for a personal leave of absence after six (6) months of service. If you desire to take a personal leave of absence you must first gain approval of your Department Director.

Length of Leave

The leave may be requested for any time over 30 days. A personal leave of absence starts on the first regular workday following the last day worked.

Request Procedure

A written request should be submitted to your Department Director at least one week (5 working days) in advance of any time not worked which exceeds ten days, except in cases of emergency. Any leave request must include an expected date of return. If you do not return within three days of that date, and no extension has been requested, you will be assumed to have voluntarily resigned.

Pay while on Leave

Personal leaves of absence are without pay. You must exhaust any accrued leave prior to beginning a personal leave of absence, unless authorized by the City Manager.

Status of Benefits

Insurance coverage will not be maintained for you while on a personal leave of absence. You may continue insurance coverage by paying the full premium by the first of each month if continuance of insurance coverage desired. Benefits do not accrue during a leave of absence, but are retained at the same level.

Reinstatement

The organization will attempt to arrange employment for individuals returning from a personal leave of absence, but no guarantees are made. While you are on a personal leave of absence, you are required to check in with your supervisor on a regular basis, to inform us of your status and to notify us of any change in personal data.

9.10 Administrative Leave

There are two types of administrative leave within the City.

Investigations

When situations arise which require review by the City and where the City Manager believes it is in the best interest of the City to temporarily remove an employee from the work environment, however an immediate suspension is inappropriate, the City Manager may authorize an administrative absence with pay. Except in cases where the City is awaiting the results of a fitness for duty examination, Administrative Absence With Pay will normally not exceed thirty (30) consecutive calendar days.

In Lieu of Overtime

Regular, non-represented, FLSA exempt full-time employees are eligible to receive 5 days (40 hours) of administrative leave in lieu of overtime compensation on a calendar year basis. Administrative leave is credited at the beginning of the calendar year and shall be prorated to the nearest hour for newly hired employees. Employees must receive supervisor approval prior to taking administrative leave. Administrative leave must be used within the year credited or forfeited. Administrative leave hours are forfeited upon termination.

9.11 Uniformed Services Leave and Re-Employment

Regular employees requiring a leave of absence for service in the uniformed services are provided leave and will be re-employed at the end of the leave. Policies governing this leave are designed according to the Uniformed Services Leave and Re-employment Act and applicable state regulations. The policy covers those employees who enter active military duty voluntarily and extends to Reservists or National Guard members who are called to limited active duty or extended training duty, including regularly scheduled active duty for training.

Eligibility

All employees of the organization except those hired on a temporary basis are eligible for the leave.

Length of Leave

The length of the military leave is determined by the uniformed services organization calling you to active duty or military encampment.

Request Procedure

You must provide written notice of your obligation or intention to perform service in the uniformed services, unless notice is precluded by military necessity or is otherwise unreasonable or impossible. Failure to do so may result in loss of re-employment rights.

Pay while on Leave

Employees of the City who are members of the Oregon National Guard or any reserve component of the armed forces of the United States are entitled to a paid leave of absence from duties for a period not to exceed fifteen (15) calendar days in any federal fiscal year (October 1 through September 30) for Active Duty Training (ADT) or Inactive Duty Training (IDT), provided the employee is employed at least six months prior to the leave.

Military leaves are without pay unless you elect to utilize vacation, compensatory time, or other benefits earned before commencement of the leave and are otherwise eligible to use such benefits. You must request and obtain approval to leave accrual pay during military leaves of absence.

Status of Benefits

Reservists, National Guard members and veterans returning from military service in the Armed Forces have and retain rights with respect to seniority, vacation, compensation and length of service pay increases, as may be from time to time provided by applicable statutes of the United States and the state of Oregon. You may maintain health care insurance benefits for up to 18 months while on leave by paying the insurance premium through COBRA for any leave extending beyond 30 days.

The City will continue to credit your retirement account on your behalf during periods of active duty if you are currently an active member in the retirement plan.

Reinstatement

If you are returning from a Uniformed Service Leave, you must report to work or request re-employment within prescribed time limits, which are based on the length of the leave:

1 to 30 days: You are expected to report to work on the first regularly scheduled workday following completion of training and you will be reinstated to the same position you held at the time the service leave began.

31 to 180 days : If you are a Reservist or National Guard member returning from initial active duty for training you must submit an application for re-employment within 31 days after release from service under honorable conditions. You will be returned to the same position held at the time the service leave began, provided the leave has been for less than 90 days in length. If 91 days or longer, when you return you will be reinstated to the same job, or comparable job in terms of like seniority, status and pay, as long as you are qualified to perform the duties.

181 days or longer: If you are returning from active duty in the armed services, you must submit an application for re-employment within 90 days after completion of satisfactory service. You will be reinstated to an equivalent position as long as you are qualified to perform the duties and the organization's circumstances have not changed to the extent that it would be impossible or unreasonable to provide re-employment. When returning, you are required to provide documentation to verify your rights to re-employment, including your separation papers. Time limits for application for re-employment are extended for up to two years for disabled veterans.

Failure to file an application within the required time period forfeits the right to re-employment.

9.12 Domestic Violence Leave

An employee who is a victim of domestic violence, sexual assault or stalking or is a parent or guardian of a minor child or dependent, who is a victim, may be entitled to take unpaid protected leave from work to obtain services or treatment.

Eligibility

You will be eligible to take domestic violence leave if you have worked an average of 25 or more hours per week for at least 180 days immediately prior to the period of leave.

Types of Services /Treatment

An employee may take leave to seek legal or law enforcement assistance, to secure medical treatment, to obtain counseling, to relocate or to take other reasonable steps to ensure the health and well-being of themselves or their child or legal dependent.

Employees who are the victim of domestic violence, sexual assault or stalking may request a reasonable safety accommodation in the work place. A reasonable safety accommodation could include a transfer, reassignment, modified work schedule, unpaid leave, changed work telephone number, changed work station, installed lock or any other adjustment to the job structure, work

place facility or work requirement in response to actual or threatened domestic violence, sexual assault or stalking. The reasonableness of the safety accommodation will depend on the particular circumstances at issue.

Length of Leave

The amount and length of time you make take is limited to that which does not create an undue hardship on the City.

Request Procedure

An employee accessing this leave provision needs to request time off from Human Resources as much in advance as possible to aid in scheduling with their Department. Information shared will be considered confidential.

Pay While on Leave

Domestic Violence leave is unpaid; however eligible employees who take this type of leave are required to use any accrued paid time available to them.

9.13 Lactation Leave

The City promotes and supports expressing breast milk on its premises, and will support employees' continuation of expressing breast milk upon return to work. Female employees may use up to 30 minutes of unpaid time during every four hour work period to express milk until their babies are 18 months old.

9.14 Veterans Day Leave

An employee who is scheduled to work on Veterans Day and is a veteran as defined in ORS 408.225 may request to take the day off under the following circumstances:

1. The employee must provide the City with at least 21 days prior notice that he/she is requesting Veterans Day off; and
2. The employee must provide the City documentation verifying that he/she is a veteran as defined in ORS 408.225.

The City will do one of the following within 14 calendar days before Veterans Day:

1. Grant the qualifying employee the day off. The employee will be required to use appropriate paid leave to cover his/her absence; or
2. Deny the request to take Veteran's Day off due to the employee's absence causing an undue hardship, such as significant economic or operational disruptions. The employee will be allowed to choose a single day off before the following Veterans Day. The day off must be in addition to any other time off to which the employee would otherwise be entitled. The employee will be required to use appropriate paid leave to cover his/her absence.

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CHAPTER 10

OTHER FRINGE BENEFITS

10.1 Deferred Compensation

The City provides a voluntary deferred compensation plan (457b) through multiple vendors. Contributions may be made pre-tax or post-tax through payroll deduction and are made at no cost to the City. Please contact Human Resources for additional information.

10.2 Wellness

The City recognizes that the health and fitness of all employees contributes to a higher level of morale and performance. The City's Wellness Program is aimed at improving overall employee health and fitness through identification of risk factors, encouragement of physical fitness and lifestyle changes, and ongoing education.

The City's Wellness Program may incorporate the following:

- A Citywide Health Fair,
- Brown bag lunch hour sessions in the summer,
- Free admission to fitness or public swim sessions and water aerobics classes at the Aquatic Center,
- A monthly fitness center subsidy in the amount of \$7.50 (Please note, the fitness subsidy is considered taxable income), and
- Monthly distribution of the Hope Health Letter.

Please contact Human Resources for additional information about any of these services.

10.3 Employee Assistance Program (EAP)

The City makes available to employees an Employee Assistance Program (EAP) designed to assist in the identification and resolution of concerns or problems (personal or job related), which may adversely affect an employee's personal or professional well-being or job performance. These personal concerns may include, but are not limited to, health, marital status, family, financial, substance abuse, emotional/stress and other personal matters. The Employee Assistance Program includes:

- A written directive describing program services; procedures for obtaining program services;
- Confidential, appropriate and timely problem assessment services;
- Referrals to services, either workplace or community resources for appropriate diagnosis, treatment, and follow-up;
- Written procedures and guidelines for referral to and/or mandatory participation; and,
- Training of designated supervisory personnel in the program services, supervisor's role and responsibility, and identification of employee behaviors which would indicate the existence of employee concerns, problems and/or issues that could impact employee job performance.

An employee's referral may either be voluntary, in which the employee elects to participate in the program, or it may be a supervisory referral, in which a supervisor uses agency guidelines to refer an employee into the program. Appropriate measures are taken to ensure confidentiality of records for employees admitted to the program, according to established City policy and state and federal regulations.

10.4 Education & Training

The City supports and advocates continued education and training for every employee to enhance their job performance and assist in their potential career advancement within the City.

Regular employees who have completed their initial probationary period may request reimbursement for the costs of college-level courses, seminars, and conferences relevant to their role in the organization within the following guidelines:

1. Such requests must be made in writing to the Department Director and approved prior to the employee's enrollment or participation. Department Directors must submit requests for approval to the City Manager.
2. Funds for such expenditures must be available in the current budget.
3. The employee may not be receiving reimbursement for tuition from any other source, nor be otherwise compensated for completion of the course by the City.
4. Reimbursement for all classes will be made only if the employee produces a receipt for the cost of the course and evidence indicating attainment of a "C" grade or better for undergraduate classes; a "B" grade or better for post-graduate classes; or passage of the course in a pass/fail course.
5. Reimbursement for college tuition shall be limited to \$400.00 per course up to a maximum of \$2,400 per fiscal year per employee.
6. Courses which are offered only during regular working hours may be approved by the Department Director, provided time off can be arranged and reasonable arrangements can be made to make up the time off.

10.5 Credit Union

Employees and family members are eligible to join the Credit Union immediately upon hire.

10.6 Voluntary Supplemental

The City currently offers several voluntary supplemental insurance plans for employees to consider.

All of the supplemental insurances are offered to regular employees on a post-tax basis. Participation in supplemental insurance plans is voluntary and solely at the employee's expense. Please contact Human Resources for additional information about any of the supplemental benefits.

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CHAPTER 11

ACKNOWLEDGEMENT

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Handbook Receipt Acknowledgment Form

As an employee of the City of Forest Grove, I acknowledge the following things:

1. I have received a copy of the Employee Handbook. I understand that the Handbook contains important information about the City's policies, work rules and my benefits. I also understand that the Handbook outlines my responsibilities as an employee of the City. I also understand that I have the responsibility to read and understand the information in the Handbook, and to ask my supervisor for clarification of any information I do not understand.
2. I understand that this Handbook is not a contract of employment or a guarantee of specific treatment in specific situations. Except for any supplemental safety policies and rules that apply to employees in certain jobs or work areas, or otherwise stated in a written employment contract, I understand that this Handbook supersedes all prior Handbooks, policies and understandings on the subjects contained in it.
3. I understand that unless stated in an employment contract, the City has the right to change, modify, add to, substitute or eliminate, interpret and apply, in its sole judgment, the policies, rules and benefits described in this Handbook. I understand that should the content be changed in any way, the City will require an additional signed acknowledgment from me to indicate that I am aware of the changes.
4. I understand that the Council is the only body authorized to make changes in the policies, rules and benefits described in this Handbook and that all such changes must be in writing to be valid. I also understand that the City Manager is the only person who will ever have the authority to enter into an employment contract, and that all such contracts must be in writing and signed by both parties to be valid.
5. I am aware that I may be given confidential information during the course of my employment, such as customer lists or other information. I understand that this information is critical to the success of the City and I agree not to disseminate or use it outside of the workplace. In the event of my termination, either voluntary or involuntary, I agree not to use this information or communicate it to any other individual, organization or entity.
6. I understand that if there is a possibility that I may drive a vehicle on City business in the course of my employment, my driving record will be monitored to ensure compliance with the City's driving policy outlined in Section 5.7 of this Handbook.

I also acknowledge that I have asked for and received clarification on any of the six items listed on this acknowledgement form that I did not understand, before signing it.

Employee Signature

Date

Print Employee's Name

Driver's License Number

Date of Birth



September 14, 2015

**RESOLUTION EXTENDING CITY OF FOREST GROVE
WORKERS' COMPENSATION COVERAGE TO CERTAIN
VOLUNTEERS OF THE CITY OF FOREST GROVE
AND REPEALING RESOLUTION NO. 2007-63 AND
RESOLUTION NO. 2010-20**

Project Team: Paul Downey, Administrative Services Director
Brenda Camilli, Human Resources Manager
Jesse VanderZanden, City Manager

ISSUE STATEMENT: The City passed resolutions 2007-63 and 2010-20 providing workers' compensation coverage for public safety volunteers including reserve police officers. The resolutions need to be updated to be more specific as to what classes of volunteers are or are not provided coverage. The attached resolution provides clarification as to which volunteers are or are not covered by workers' compensation.

DISCUSSION: Oregon Revised Statute 656.031 Coverage for municipal volunteer personnel, allows municipalities to offer workers' compensation coverage to specified classes of volunteer personnel. In order to do so, ORS 656.031 requires that the governing body submit a resolution declaring its intent to cover these volunteer personnel. The attached resolution provides such a notice and authorization for Council to consider.

Currently, the City only provides workers' compensation insurance for public safety volunteers. The resolution does not change which volunteers currently receive workers' compensation. No new classes of volunteers are being added to workers' compensation as a result of this resolution.

FISCAL IMPACT: There is no additional fiscal impact for this resolution as the cost of providing workers' compensation insurance is currently in the budget. The current rate is \$.85/\$100 of payroll at the \$800 assumed wage rate, the approximate annual premium cost for each public safety volunteer is \$81.60/annually.

STAFF RECOMMENDATION: Staff recommends the City Council adopt the attached resolution continuing workers' compensation insurance to certain volunteers of the City of Forest Grove.

RESOLUTION NO. 2015-67

RESOLUTION EXTENDING CITY OF FOREST GROVE WORKERS' COMPENSATION COVERAGE TO CERTAIN VOLUNTEERS OF THE CITY OF FOREST GROVE AND REPEALING RESOLUTION NO. 2007-63 AND RESOLUTION 2010-20

WHEREAS, the City Forest Grove elects the following:

Pursuant to ORS 656.031, the workers' compensation coverage will be provided to classes of volunteers listed in this resolution, noted on a volunteer roster with payroll reported at audit:

1. **Public Safety Volunteers** Applicable X Non-applicable _____

An assumed monthly wage of \$800 will be used for public safety volunteers in the volunteer positions of Police Reserve Officer, Volunteer Firefighter, and Non-Combat Support Fire Department Volunteers.

2. **Volunteer boards, commissions and councils for the performance of administrative duties.** Applicable _____ Non-applicable X
3. **Manual labor by elected officials.** Applicable _____ Non-applicable X
4. **Non-public safety volunteers.** Applicable _____ Non-applicable X
5. **Public Events.** Applicable _____ Non-applicable X
6. **Community Service Volunteers/Inmates.** Applicable _____ Non-applicable X

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS:

Section 1. The City Council of the City of Forest Grove hereby enacts this resolution authorizing to provide workers' compensation insurance coverage as indicated above.

Section 2. Resolution Nos. 2007-63 and 2010-20 are hereby repealed upon the effective implementation date of this resolution.

Section 3. This resolution is effective immediately upon its enactment by the City Council.

PRESENTED AND PASSED this 14th day of September, 2015.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 14th day of September, 2015.

Peter B, Truax, Mayor

September 14, 2015

**REPORT AND RESOLUTION REQUESTING TO MOVE
REGULAR CITY COUNCIL MEETING FROM MONDAY,
OCTOBER 26, 2015, TO FRIDAY, OCTOBER 30, 2015**

Project Team: Mayor Peter Truax
Jesse VanderZanden, City Manager
Anna D. Ruggles, CMC, City Recorder

BACKGROUND:

Section III(1) of the Forest Grove City Council Rules and Procedures requires the Council to designate by resolution the meeting dates of the Council. Council adopted Resolution No. 2015-01 setting Council meeting dates for 2015.

DISCUSSION:

The Town of Nyuzen, Japan, Forest Grove's Sister City, is sending a student delegation consisting of the newly-elected Mayor of Nyuzen and three Nyuzen town officials who are visiting Forest Grove. Management staff is seeking City Council approval to move the regular City Council Meeting from Monday, October 26, 2015, 7:00 p.m., to Friday, October 30, 2015, 9:00 a.m., to accommodate a special request from the Mayor of Nyuzen to view and assess a City Council Meeting during the delegation's visit. If approved by Council, staff will advertise the meeting date change as soon as possible. Staff has confirmed with TVCTV that they are available to televise the City Council meeting on Friday, October 30, 2015, in the morning.

STAFF RECOMMENDATION:

Staff recommends the City Council approve the attached resolution moving the regular City Council Meeting from Monday, October 26, 2015, 7:00 p.m., to Friday, October 30, 2015, 9:00 a.m., in the Community Auditorium, 1915 Main Street.



RESOLUTION NO. 2015-68

RESOLUTION APPROVING TO MOVE THE REGULAR CITY COUNCIL MEETING FROM MONDAY, OCTOBER 26, 2015, TO FRIDAY, OCTOBER 30, 2015

WHEREAS, pursuant to Resolution No. 2015-01, the City Council has set its regular City Council Meeting dates for 2015; and

WHEREAS, the Town of Nyuzen, Japan, Forest Grove's Sister City, is sending a student delegation consisting of the newly-elected Mayor of Nyuzen and three Nyuzen town officials who are visiting Forest Grove; and

WHEREAS, pursuant to a request to view and assess a Forest Grove City Council meeting by the Mayor of Nyuzen, the City Council is moving its regular City Council Meeting from Monday, October 26, 2015, to Friday, October 30, 2015, 9:00 a.m., to accommodate this special request.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS;

Section 1. The Forest Grove City Council hereby approves moving the regular City Council Meeting from Monday, October 26, 2015, 7:00 p.m., to Friday, October 30, 2015, 9:00 a.m.

Section 2. This resolution is effective immediately upon its enactment by the City Council.

PRESENTED AND PASSED this 14th day of September, 2015.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 14th day of September, 2015.

Peter B. Truax, Mayor